

nership adjustment (or provided by section 6501 or 6502 on the assessment or collection of any amount required to be paid under section 6242) shall, in a case under title 11 of the United States Code, be suspended during the period during which the Secretary is prohibited by reason of such case from making the adjustment (or assessment or collection) and—

(A) for adjustment or assessment, 60 days thereafter, and

(B) for collection, 6 months thereafter.

A rule similar to the rule of section 6213(f)(2) shall apply for purposes of section 6246.

(2) Suspension of period of limitation for filing for judicial review

The running of the period specified in section 6247(a) or 6252(b) shall, in a case under title 11 of the United States Code, be suspended during the period during which the partnership is prohibited by reason of such case from filing a petition under section 6247 or 6252 and for 60 days thereafter.

(g) Regulations

The Secretary shall prescribe such regulations as may be necessary to carry out the provisions of this subchapter, including regulations—

(1) to prevent abuse through manipulation of the provisions of this subchapter, and

(2) providing that this subchapter shall not apply to any case described in section 6231(c)(1) (or the regulations prescribed thereunder) where the application of this subchapter to such a case would interfere with the effective and efficient enforcement of this title.

In any case to which this subchapter does not apply by reason of paragraph (2), rules similar to the rules of sections 6229(f) and 6255(f) shall apply.

(Added Pub. L. 105-34, title XII, § 1222(a), Aug. 5, 1997, 111 Stat. 1017.)

CHAPTER 64—COLLECTION

Subchapter	Sec. ¹
A. General provisions	6301
B. Receipt of payment	6311
C. Lien for taxes	6321
D. Seizure of property for collection of taxes	6331
[E. Repealed.]	

AMENDMENTS

1990—Pub. L. 101-508, title XI, § 11801(b)(14), Nov. 5, 1990, 104 Stat. 1388-522, struck out item for subchapter E “Collection of State individual income taxes”.

1972—Pub. L. 92-512, title II, § 202(b), Oct. 20, 1972, 86 Stat. 944, added item for subchapter E.

CHAPTER REFERRED TO IN OTHER SECTIONS

This chapter is referred to in section 7804 of this title.

Subchapter A—General Provisions

Sec.	
6301.	Collection authority
6302.	Mode or time of collection.
6303.	Notice and demand for tax.
6304.	Fair tax collection practices.

¹ Section numbers editorially supplied.

Sec.	
6305.	Collection of certain liability.

AMENDMENTS

1998—Pub. L. 105-206, title III, § 3466(b), July 22, 1998, 112 Stat. 769, added item 6304.

1976—Pub. L. 94-455, title XIX, § 1906(b)(5), Oct. 4, 1976, 90 Stat. 1833, struck out item “6304. Collection under the Tariff Act”.

1975—Pub. L. 93-647, § 101(b)(2), Jan. 4, 1975, 88 Stat. 2358, added item 6305.

CHAPTER REFERRED TO IN OTHER SECTIONS

This chapter is referred to in sections 6867, 7410, 7811 of this title.

§ 6301. Collection authority

The Secretary shall collect the taxes imposed by the internal revenue laws.

(Aug. 16, 1954, ch. 736, 68A Stat. 775; Pub. L. 94-455, title XIX, § 1906(b)(13)(A), Oct. 4, 1976, 90 Stat. 1834.)

REFERENCES IN TEXT

The internal revenue laws, referred to in text, are classified generally to this title.

AMENDMENTS

1976—Pub. L. 94-455 struck out “or his delegate” after “Secretary”.

APPROVAL PROCESS FOR LIENS, LEVIES, AND SEIZURES

Pub. L. 105-206, title III, § 3421, July 22, 1998, 112 Stat. 758, provided that:

“(a) IN GENERAL.—The Commissioner of Internal Revenue shall develop and implement procedures under which—

“(1) a determination by an employee to file a notice of lien or levy with respect to, or to levy or seize, any property or right to property would, where appropriate, be required to be reviewed by a supervisor of the employee before the action was taken; and

“(2) appropriate disciplinary action would be taken against the employee or supervisor where the procedures under paragraph (1) were not followed.

“(b) REVIEW PROCESS.—The review process under subsection (a)(1) may include a certification that the employee has—

“(1) reviewed the taxpayer’s information;

“(2) verified that a balance is due; and

“(3) affirmed that the action proposed to be taken is appropriate given the taxpayer’s circumstances, considering the amount due and the value of the property or right to property.

“(c) EFFECTIVE DATES.—

“(1) IN GENERAL.—Except as provided in paragraph (2), this section shall take effect on the date of the enactment of this Act [July 22, 1998].

“(2) AUTOMATED COLLECTION SYSTEM ACTIONS.—In the case of any action under an automated collection system, this section shall apply to actions initiated after December 31, 2000.”

CROSS REFERENCES

General powers and duties of officers and employees of Treasury Department, see section 7621 et seq. of this title.

§ 6302. Mode or time of collection

(a) Establishment by regulations

If the mode or time for collecting any tax is not provided for by this title, the Secretary may establish the same by regulations.

(b) Discretionary method

Whether or not the method of collecting any tax imposed by chapter 21, 31, 32, or 33, or by sec-

tion 4481 is specifically provided for by this title, any such tax may, under regulations prescribed by the Secretary, be collected by means of returns, stamps, coupons, tickets, books, or such other reasonable devices or methods as may be necessary or helpful in securing a complete and proper collection of the tax.

(c) Use of Government depositaries

The Secretary may authorize Federal Reserve banks, and incorporated banks, trust companies, domestic building and loan associations, or credit unions which are depositaries or financial agents of the United States, to receive any tax imposed under the internal revenue laws, in such manner, at such times, and under such conditions as he may prescribe; and he shall prescribe the manner, times, and conditions under which the receipt of such tax by such banks, trust companies, domestic building and loan associations, and credit unions is to be treated as payment of such tax to the Secretary.

(d) Time for payment of manufacturers' excise tax on sporting goods

The taxes imposed by subsections (a) and (b) of section 4161 (relating to taxes on sporting goods) shall be due and payable on the date for filing the return for such taxes.

(e) Time for deposit of taxes on communications services and airline tickets

(1) In general

Except as provided in paragraph (2), if, under regulations prescribed by the Secretary, a person is required to make deposits of any tax imposed by section 4251 or subsection (a) or (b) of section 4261 with respect to amounts considered collected by such person during any semi-monthly period, such deposit shall be made not later than the 3rd day (not including Saturdays, Sundays, or legal holidays) after the close of the 1st week of the 2nd semi-monthly period following the period to which such amounts relate.

(2) Special rule for tax due in September

(A) Amounts considered collected

In the case of a person required to make deposits of the tax imposed by—

- (i) section 4251, or
- (ii) effective on January 1, 1997, section 4261 or 4271,

with respect to amounts considered collected by such person during any semi-monthly period, the amount of such tax included in bills rendered or tickets sold during the period beginning on September 1 and ending on September 11 shall be deposited not later than September 29.

(B) Special rule where September 29 is on Saturday or Sunday

If September 29 falls on a Saturday or Sunday, the due date under subparagraph (A) shall be—

- (i) in the case of Saturday, the preceding day, and
- (ii) in the case of Sunday, the following day.

(C) Taxpayers not required to use electronic funds transfer

In the case of deposits not required to be made by electronic funds transfer, subparagraphs (A) and (B) shall be applied by substituting "September 10" for "September 11" and "September 28" for "September 29".

(f) Time for deposit of certain excise taxes

(1) General rule

Except as otherwise provided in this subsection and subsection (e), if any person is required under regulations to make deposits of taxes under subtitle D with respect to semi-monthly periods, such person shall make deposits of such taxes for the period beginning on September 16 and ending on September 26 not later than September 29. In the case of taxes imposed by sections 4261 and 4271, this paragraph shall not apply to periods before January 1, 1997.

(2) Taxes on ozone depleting chemicals

If any person is required under regulations to make deposits of taxes under subchapter D of chapter 38 with respect to semi-monthly periods, in lieu of paragraph (1), such person shall make deposits of such taxes for—

- (A) the second semi-monthly period in August, and
- (B) the period beginning on September 1 and ending on September 11,

not later than September 29.

(3) Taxpayers not required to use electronic funds transfer

In the case of deposits not required to be made by electronic funds transfer, paragraphs (1) and (2) shall be applied by substituting "September 25" for "September 26", "September 10" for "September 11", and "September 28" for "September 29".

(4) Special rule where due date on Saturday or Sunday

If, but for this paragraph, the due date under paragraph (1), (2), or (3) would fall on a Saturday or Sunday, such due date shall be deemed to be—

- (A) in the case of Saturday, the preceding day, and
- (B) in the case of Sunday, the following day.

(g) Deposits of social security taxes and withheld income taxes

If, under regulations prescribed by the Secretary, a person is required to make deposits of taxes imposed by chapters 21, 22, and 24 on the basis of eighth-month periods, such person shall make deposits of such taxes on the 1st banking day after any day on which such person has \$100,000 or more of such taxes for deposit.

(h) Use of electronic fund transfer system for collection of certain taxes

(1) Establishment of system

(A) In general

The Secretary shall prescribe such regulations as may be necessary for the development and implementation of an electronic

fund transfer system which is required to be used for the collection of depository taxes. Such system shall be designed in such manner as may be necessary to ensure that such taxes are credited to the general account of the Treasury on the date on which such taxes would otherwise have been required to be deposited under the Federal tax deposit system.

(B) Exemptions

The regulations prescribed under subparagraph (A) may contain such exemptions as the Secretary may deem appropriate.

(2) Phase-in requirements

(A) In general

Except as provided in subparagraph (B), the regulations referred to in paragraph (1)—

(i) shall contain appropriate procedures to assure that an orderly conversion from the Federal tax deposit system to the electronic fund transfer system is accomplished, and

(ii) may provide for a phase-in of such electronic fund transfer system by classes of taxpayers based on the aggregate undeposited taxes of such taxpayers at the close of specified periods and any other factors the Secretary may deem appropriate.

(B) Phase-in requirements

The phase-in of the electronic fund transfer system shall be designed in such manner as may be necessary to ensure that—

(i) during each fiscal year beginning after September 30, 1993, at least the applicable required percentage of the total depository taxes imposed by chapters 21, 22, and 24 shall be collected by means of electronic fund transfer, and

(ii) during each fiscal year beginning after September 30, 1993, at least the applicable required percentage of the total other depository taxes shall be collected by means of electronic fund transfer.

(C) Applicable required percentage

(i) In the case of the depository taxes imposed by chapters 21, 22, and 24, the applicable required percentage is—

- (I) 3 percent for fiscal year 1994,
- (II) 16.9 percent for fiscal year 1995,
- (III) 20.1 percent for fiscal year 1996,
- (IV) 58.3 percent for fiscal years 1997 and 1998, and
- (V) 94 percent for fiscal year 1999 and all fiscal years thereafter.

(ii) In the case of other depository taxes, the applicable required percentage is—

- (I) 3 percent for fiscal year 1994,
- (II) 20 percent for fiscal year 1995,
- (III) 30 percent for fiscal year 1996,
- (IV) 60 percent for fiscal years 1997 and 1998, and
- (V) 94 percent for fiscal year 1999 and all fiscal years thereafter.

(3) Definitions

For purposes of this subsection—

(A) Depository tax

The term “depository tax” means any tax if the Secretary is authorized to require deposits of such tax.

(B) Electronic fund transfer

The term “electronic fund transfer” means any transfer of funds, other than a transaction originated by check, draft, or similar paper instrument, which is initiated through an electronic terminal, telephonic instrument, or computer or magnetic tape so as to order, instruct, or authorize a financial institution or other financial intermediary to debit or credit an account.

(4) Coordination with other electronic fund transfer requirements

(A) Coordination with certain excise taxes

In determining whether the requirements of subparagraph (B) of paragraph (2) are met, taxes required to be paid by electronic fund transfer under sections 5061(e) and 5703(b) shall be disregarded.

(B) Additional requirement

Under regulations, any tax required to be paid by electronic fund transfer under section 5061(e) or 5703(b) shall be paid in such a manner as to ensure that the requirements of the second sentence of paragraph (1)(A) of this subsection are satisfied.

(i) Cross references

For treatment of earned income advance amounts as payment of withholding and FICA taxes, see section 3507(d).

(Aug. 16, 1954, ch. 736, 68A Stat. 775; June 29, 1956, ch. 462, title II, § 206(b), 70 Stat. 391; Pub. L. 94-455, title XIX, § 1906(a)(17), (b)(13)(A), Oct. 4, 1976, 90 Stat. 1825, 1834; Pub. L. 95-147, § 3(a), Oct. 28, 1977, 91 Stat. 1228; Pub. L. 95-600, title I, § 105(e), Nov. 6, 1978, 92 Stat. 2776; Pub. L. 96-223, title I, § 101(c)(2), Apr. 2, 1980, 94 Stat. 250; Pub. L. 98-369, div. A, title X, § 1015(c), July 18, 1984, 98 Stat. 1018; Pub. L. 100-418, title I, § 1941(b)(2)(G), Aug. 23, 1988, 102 Stat. 1323; Pub. L. 100-647, title VI, § 6107(a), Nov. 10, 1988, 102 Stat. 3712; Pub. L. 101-239, title VII, §§ 7502(a), 7507(a), 7632(a), Dec. 19, 1989, 103 Stat. 2362, 2369, 2379; Pub. L. 101-508, title XI, §§ 11217(b)(1), 11334(a), 11801(c)(22)(A), Nov. 5, 1990, 104 Stat. 1388-437, 1388-470, 1388-528; Pub. L. 103-66, title XIII, § 13242(d)(15), Aug. 10, 1993, 107 Stat. 524; Pub. L. 103-182, title V, § 523(a), Dec. 8, 1993, 107 Stat. 2161; Pub. L. 103-465, title VII, § 712(a), (d), Dec. 8, 1994, 108 Stat. 4999, 5001; Pub. L. 104-188, title I, §§ 1702(c)(3), 1704(t)(52), Aug. 20, 1996, 110 Stat. 1869, 1890.)

AMENDMENTS

1996—Subsec. (b). Pub. L. 104-188, § 1704(t)(52), provided that section 11801(c)(22)(A) of Pub. L. 101-508 shall be applied as if “chapters 21” appeared instead of “chapter 21” in the material to be stricken. See 1990 Amendment note below.

Subsec. (g). Pub. L. 104-188, § 1702(c)(3), inserted “, 22,” after “chapters 21”.

1994—Subsec. (e). Pub. L. 103-465, § 712(d), reenacted heading without change and amended text generally. Prior to amendment, text read as follows: “If, under regulations prescribed by the Secretary, a person is required to make deposits of any tax imposed by section

4251 or subsection (a) or (b) of section 4261 with respect to amounts considered collected by such person during any semimonthly period, such deposit shall be made not later than the 3rd day (not including Saturdays, Sundays, or legal holidays) after the close of the 1st week of the 2nd semimonthly period following the period to which such amounts relate.”

Subsec. (f). Pub. L. 103-465, §712(a), substituted “certain excise taxes” for “taxes on gasoline and diesel fuel” in heading and amended text generally. Prior to amendment, text read as follows:

“(1) GENERAL RULE.—Notwithstanding section 518 of the Highway Revenue Act of 1982, any person whose liability for tax under section 4081 is payable with respect to semimonthly periods shall, not later than September 27, make deposits of such tax for the period beginning on September 16 and ending on September 22.

“(2) SPECIAL RULE WHERE DUE DATE FALLS ON SATURDAY, SUNDAY, OR HOLIDAY.—If, but for this paragraph, the due date under paragraph (1) would fall on a Saturday, Sunday, or holiday in the District of Columbia, such due date shall be deemed to be the immediately preceding day which is not a Saturday, Sunday, or such a holiday.”

1993—Subsec. (f). Pub. L. 103-66 inserted “and diesel fuel” after “gasoline” in heading.

Subsecs. (h), (i). Pub. L. 103-182 added subsec. (h) and redesignated former subsec. (h) as (i).

1990—Subsec. (b). Pub. L. 101-508, §11801(c)(22)(A), which directed the substitution of “chapter 21, 31, 32, or 33, or by section 4481” for “chapter 21” and all that follows down through “chapter 37,” was executed by making the substitution for “chapters 21, 31, 32, 33, section 4481 of chapter 36, section 4501(a) of chapter 37” to reflect the probable intent of Congress. See 1996 Amendment note above.

Subsec. (e). Pub. L. 101-508, §11217(b)(1), inserted “communications services and” before “airline” in heading and “section 4251 or” after “imposed by” in text.

Subsec. (g). Pub. L. 101-508, §11334(a), amended subsec. (g) generally, striking out par. (1) designation and striking heading, striking out “, for the years specified in paragraph (2),” after “such person shall”, substituting “on the 1st banking day” for “on the applicable banking day”, and striking out par. (2), which provided that for purposes of par. (1) the applicable banking day for 1990 is the 1st, for 1991 the 2nd, for 1992 the 3rd, for 1993 the 1st, and for 1994 the 1st.

1989—Subsec. (e). Pub. L. 101-239, §7502(a), added subsec. (e). Former subsec. (e) redesignated (f).

Subsec. (f). Pub. L. 101-239, §7507(a), added subsec. (f). Former subsec. (f) redesignated (g).

Pub. L. 101-239, §7502(a), redesignated former subsec. (e) as (f).

Subsec. (g). Pub. L. 101-239, §7632(a), added subsec. (g). Former subsec. (g) redesignated (h).

Pub. L. 101-239, §7507(a), redesignated former subsec. (f) as (g).

Subsec. (h). Pub. L. 101-239, §7632(a), redesignated former subsec. (g) as (h).

1988—Subsec. (d). Pub. L. 100-647 substituted “Time for payment of manufacturers’ excise tax on sporting goods” for “Time for payment of manufacturers excise tax on sport fishing equipment” in heading and amended text generally. Prior to amendment, subsec. (d) read as follows: “The tax imposed by section 4161(a) (relating to manufacturers excise tax on sport fishing equipment) shall be due and payable on the date for filing the return for such tax.”

Subsec. (e). Pub. L. 100-418 substituted “For” for “(1) For” and struck out par. (2) which read as follows: “For depositary requirements applicable to the windfall profit tax imposed by section 4986, see section 4995(b).”

1984—Subsecs. (d), (e). Pub. L. 98-369 added subsec. (d) and redesignated former subsec. (d) as (e).

1980—Subsec. (d). Pub. L. 96-223 designated existing cross reference as par. (1), substituted “For treatment of earned income advance amounts” for “For treatment of payment of earned income advance amounts”, and added par. (2).

1978—Subsec. (d). Pub. L. 95-600 added subsec. (d).

1977—Subsec. (c). Pub. L. 95-147 substituted “, trust companies, domestic building and loan associations, or credit unions” for “or trust companies” and “, trust companies, domestic building and loan associations, and credit unions” for “and trust companies”.

1976—Subsec. (a). Pub. L. 94-455, §1906(b)(13)(A), struck out “or his delegate” after “Secretary”.

Subsec. (b). Pub. L. 94-455, §1906(a)(17), (b)(13)(A), substituted “section 4501(a) of chapter 37” for “sections 4501(a) or 4511 of chapter 37, or section 4701 or 4721 of chapter 39” and struck out “or his delegate” after “Secretary”.

Subsec. (c). Pub. L. 94-455, §1906(b)(13)(A), struck out “or his delegate” after “Secretary” wherever appearing.

1956—Subsec. (b). Act June 29, 1956, inserted reference to section 4481 of chapter 36.

EFFECTIVE DATE OF 1996 AMENDMENT

Amendment by section 1702(c)(3) of Pub. L. 104-188 effective, except as otherwise expressly provided, as if included in the provision of the Revenue Reconciliation Act of 1990, Pub. L. 101-508, title XI, to which such amendment relates, see section 1702(i) of Pub. L. 104-188, set out as a note under section 38 of this title.

EFFECTIVE DATE OF 1994 AMENDMENT

Amendment by Pub. L. 103-465 effective Jan. 1, 1995, see section 712(e) of Pub. L. 103-465, set out as a note under section 5061 of this title.

EFFECTIVE DATE OF 1993 AMENDMENTS

Section 523(b)(1) of Pub. L. 103-182 provided that: “The amendments made by this section [amending this section] shall take effect on the date the Agreement [North American Free Trade Agreement] enters into force with respect to the United States [Jan. 1, 1994].”

Amendment by Pub. L. 103-66 effective Jan. 1, 1994, see section 13242(e) of Pub. L. 103-66, set out as a note under section 4041 of this title.

EFFECTIVE DATE OF 1990 AMENDMENT

Section 11217(b)(2) of Pub. L. 101-508 provided that: “The amendment made by paragraph (1) [amending this section] shall apply to payments of taxes considered collected during semimonthly periods beginning after December 31, 1990.”

Section 11334(c) of Pub. L. 101-508 provided that: “The amendments made by this section [amending this section and provisions set out below] shall apply to amounts required to be deposited after December 31, 1990.”

EFFECTIVE DATE OF 1989 AMENDMENT

Section 7502(b) of Pub. L. 101-239 provided that: “The amendment made by subsection (a) [amending this section] shall apply to payments of taxes considered collected for semimonthly periods beginning after June 30, 1990.”

Section 7507(b) of Pub. L. 101-239 provided that: “The amendment made by subsection (a) [amending this section] shall apply to payments of taxes for tax periods beginning after December 31, 1989.”

Section 7632(b) of Pub. L. 101-239, as amended by Pub. L. 101-508, title XI, §11334(b), Nov. 5, 1990, 104 Stat. 1388-470, provided that:

“(1) GENERAL RULE.—Except as provided in paragraph (2), the amendment made by subsection (a) [amending this section] shall apply to amounts required to be deposited after July 31, 1990.

“(2) Repealed. Pub. L. 101-508, title XI, §11334(b), Nov. 5, 1990, 104 Stat. 1388-470.”

EFFECTIVE DATE OF 1988 AMENDMENTS

Section 6107(b) of Pub. L. 100-647 provided that: “The amendment made by subsection (a) [amending this section] shall apply with respect to articles sold by the

manufacturer, producer, or importer after December 31, 1988.”

Amendment by Pub. L. 100-418 applicable to crude oil removed from the premises on or after Aug. 23, 1988, see section 1941(c) of Pub. L. 100-418, set out as a note under section 164 of this title.

EFFECTIVE DATE OF 1984 AMENDMENT

Amendment by Pub. L. 98-369 applicable with respect to articles sold by manufacturer, producer, or importer after Sept. 30, 1984, see section 1015(e) of Pub. L. 98-369, set out as an Effective Date note under section 4162 of this title.

EFFECTIVE DATE OF 1980 AMENDMENT

Amendment by Pub. L. 96-223 applicable to periods after Feb. 29, 1980, see section 101(i) of Pub. L. 96-223, set out as a note under section 6161 of this title.

EFFECTIVE DATE OF 1978 AMENDMENT

Amendment by Pub. L. 95-600 effective with respect to remuneration paid after June 30, 1979, see section 105(g)(2) of Pub. L. 95-600, set out as an Effective Date note under section 3507 of this title.

EFFECTIVE DATE OF 1977 AMENDMENT

Section 3(c) of Pub. L. 95-147 provided that: “The amendments made by this section [amending this section and section 7502 of this title] shall apply to amounts deposited after the date of the enactment of this Act [Oct. 28, 1977].”

REGULATIONS

Section 523(b)(2) of Pub. L. 103-182 provided that: “Not later than 210 days after the date of enactment of this Act [Dec. 8, 1993], the Secretary of the Treasury or his delegate shall prescribe temporary regulations under section 6302(h) of the Internal Revenue Code of 1986 (as added by this section).”

SAVINGS PROVISION

For provisions that nothing in amendment by section 11801(c)(22)(A) of Pub. L. 101-508 be construed to affect treatment of certain transactions occurring, property acquired, or items of income, loss, deduction, or credit taken into account prior to Nov. 5, 1990, for purposes of determining liability for tax for periods ending after Nov. 5, 1990, see section 11821(b) of Pub. L. 101-508, set out as a note under section 29 of this title.

DELAYED DEPOSITS OF HIGHWAY MOTOR FUEL TAX REVENUES

Pub. L. 105-34, title IX, §901(e), Aug. 5, 1997, 111 Stat. 872, provided that: “Notwithstanding section 6302 of the Internal Revenue Code of 1986, in the case of deposits of taxes imposed by sections 4041 and 4081 (other than subsection (a)(2)(A)(ii)) of the Internal Revenue Code of 1986, the due date for any deposit which would (but for this subsection) be required to be made after July 31, 1998, and before October 1, 1998, shall be October 5, 1998.”

WAIVER OF PENALTY THROUGH JUNE 30, 1998, ON SMALL BUSINESSES FAILING TO MAKE ELECTRONIC FUND TRANSFERS OF TAXES

Pub. L. 105-34, title IX, §931, Aug. 5, 1997, 111 Stat. 881, provided that: “No penalty shall be imposed under the Internal Revenue Code of 1986 solely by reason of a failure by a person to use the electronic fund transfer system established under section 6302(h) of such Code if—

“(1) such person is a member of a class of taxpayers first required to use such system on or after July 1, 1997, and

“(2) such failure occurs before July 1, 1998.”

DELAYED DEPOSITS OF AIRPORT TRUST FUND TAX REVENUES

Pub. L. 105-34, title X, §1031(g), Aug. 5, 1997, 111 Stat. 933, provided that: “Notwithstanding section 6302 of the Internal Revenue Code of 1986—

“(1) in the case of deposits of taxes imposed by section 4261 of such Code, the due date for any such deposit which would (but for this subsection) be required to be made after August 14, 1997, and before October 1, 1997, shall be October 10, 1997,

“(2) in the case of deposits of taxes imposed by section 4261 of such Code, the due date for any such deposit which would (but for this subsection) be required to be made after August 14, 1998, and before October 1, 1998, shall be October 5, 1998, and

“(3) in the case of deposits of taxes imposed by sections 4081(a)(2)(A)(ii), 4091, and 4271 of such Code, the due date for any such deposit which would (but for this subsection) be required to be made after July 31, 1998, and before October 1, 1998, shall be October 5, 1998.”

DELAY OF ELECTRONIC FUND TRANSFER REQUIREMENT

Section 1809 of Pub. L. 104-188 provided that: “Notwithstanding any other provision of law, the increase in the applicable required percentages for fiscal year 1997 in clauses (i)(IV) and (ii)(IV) of section 6302(h)(2)(C) of the Internal Revenue Code of 1986 shall not take effect before July 1, 1997.”

DEPOSITARY SCHEDULES

Pub. L. 98-76, title II, §226, Aug. 12, 1983, 97 Stat. 426, as amended by Pub. L. 99-514, §2, Oct. 22, 1986, 100 Stat. 2095, provided that: “Effective on and after January 1, 1984, the times for making payments prescribed under section 6302 of the Internal Revenue Code of 1986 [formerly I.R.C. 1954] with respect to the taxes imposed by chapter 22 of such Code shall be the same as the times prescribed under such section which apply to the taxes imposed by chapters 21 and 24 of such Code.”

Pub. L. 98-76, title II, §227(c), Aug. 12, 1983, 97 Stat. 426, provided that: “Section 226 [set out above] shall take effect on January 1, 1984.”

CROSS REFERENCES

Bonds of employees, see section 7803 of this title.

Deposit of collections, see section 7809 of this title.

Depositaries for collections, see section 7808 of this title.

Rules and regulations, see section 7805 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 6656, 6802, 7502, 7652 of this title.

§ 6303. Notice and demand for tax

(a) General rule

Where it is not otherwise provided by this title, the Secretary shall, as soon as practicable, and within 60 days, after the making of an assessment of a tax pursuant to section 6203, give notice to each person liable for the unpaid tax, stating the amount and demanding payment thereof. Such notice shall be left at the dwelling or usual place of business of such person, or shall be sent by mail to such person's last known address.

(b) Assessment prior to last date for payment

Except where the Secretary believes collection would be jeopardized by delay, if any tax is assessed prior to the last date prescribed for payment of such tax, payment of such tax shall not be demanded under subsection (a) until after such date.

(Aug. 16, 1954, ch. 736, 68A Stat. 775; Pub. L. 94-455, title XIX, §1906(b)(13)(A), Oct. 4, 1976, 90 Stat. 1834.)

AMENDMENTS

1976—Pub. L. 94-455 struck out “or his delegate” after “Secretary” wherever appearing.

CROSS REFERENCES

Interest payable on notice and demand, see section 6601 of this title.

Levy and distraint within ten days after notice and demand, see section 6331 of this title.

Notice and demand to delinquent internal revenue officer and employee, see section 7803 of this title.

Payment on notice and demand, see section 6155 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 6305, 6656, 7522 of this title.

§ 6304. Fair tax collection practices

(a) Communication with the taxpayer

Without the prior consent of the taxpayer given directly to the Secretary or the express permission of a court of competent jurisdiction, the Secretary may not communicate with a taxpayer in connection with the collection of any unpaid tax—

(1) at any unusual time or place or a time or place known or which should be known to be inconvenient to the taxpayer;

(2) if the Secretary knows the taxpayer is represented by any person authorized to practice before the Internal Revenue Service with respect to such unpaid tax and has knowledge of, or can readily ascertain, such person's name and address, unless such person fails to respond within a reasonable period of time to a communication from the Secretary or unless such person consents to direct communication with the taxpayer; or

(3) at the taxpayer's place of employment if the Secretary knows or has reason to know that the taxpayer's employer prohibits the taxpayer from receiving such communication.

In the absence of knowledge of circumstances to the contrary, the Secretary shall assume that the convenient time for communicating with a taxpayer is after 8 a.m. and before 9 p.m., local time at the taxpayer's location.

(b) Prohibition of harassment and abuse

The Secretary may not engage in any conduct the natural consequence of which is to harass, oppress, or abuse any person in connection with the collection of any unpaid tax. Without limiting the general application of the foregoing, the following conduct is a violation of this subsection:

(1) The use or threat of use of violence or other criminal means to harm the physical person, reputation, or property of any person.

(2) The use of obscene or profane language or language the natural consequence of which is to abuse the hearer or reader.

(3) Causing a telephone to ring or engaging any person in telephone conversation repeatedly or continuously with intent to annoy, abuse, or harass any person at the called number.

(4) Except as provided under rules similar to the rules in section 804 of the Fair Debt Collection Practices Act (15 U.S.C. 1692b), the placement of telephone calls without meaningful disclosure of the caller's identity.

(c) Civil action for violations of section

For civil action for violations of this section, see section 7433.

(Added Pub. L. 105-206, title III, §3466(a), July 22, 1998, 112 Stat. 768.)

PRIOR PROVISIONS

A prior section 6304, act Aug. 16, 1954, ch. 736, 68A Stat. 776, related to a cross reference to sections 4504 and 4601 for collection under the Tariff Act of 1930, prior to repeal by Pub. L. 94-455, title XIX, §1906(a)(18), (d)(1), Oct. 4, 1976, 90 Stat. 1825, 1835, effective on first day of first month which begins more than 90 days after Oct. 4, 1976.

EFFECTIVE DATE

Pub. L. 105-206, title III, §3466(c), July 22, 1998, 112 Stat. 769, provided that: "The amendments made by this section [enacting this section] shall take effect on the date of the enactment of this Act [July 22, 1998]."

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 7803 of this title.

§ 6305. Collection of certain liability

(a) In general

Upon receiving a certification from the Secretary of Health and Human Services, under section 452(b) of the Social Security Act with respect to any individual, the Secretary shall assess and collect the amount certified by the Secretary of Health and Human Services, in the same manner, with the same powers, and (except as provided in this section) subject to the same limitations as if such amount were a tax imposed by subtitle C the collection of which would be jeopardized by delay, except that—

(1) no interest or penalties shall be assessed or collected,

(2) for such purposes, paragraphs (4), (6), and (8) of section 6334(a) (relating to property exempt from levy) shall not apply,

(3) there shall be exempt from levy so much of the salary, wages, or other income of an individual as is being withheld therefrom in garnishment pursuant to a judgment entered by a court of competent jurisdiction for the support of his minor children,

(4) in the case of the first assessment against an individual for delinquency under a court or administrative order against such individual for a particular person or persons, the collection shall be stayed for a period of 60 days immediately following notice and demand as described in section 6303, and

(5) no additional fee may be assessed for adjustments to an amount previously certified pursuant to such section 452(b) with respect to the same obligor.

(b) Review of assessments and collections

No court of the United States, whether established under article I or article III of the Constitution, shall have jurisdiction of any action, whether legal or equitable, brought to restrain or review the assessment and collection of amounts by the Secretary under subsection (a), nor shall any such assessment and collection be subject to review by the Secretary in any proceeding. This subsection does not preclude any legal, equitable, or administrative action against the State by an individual in any State court or before any State agency to determine his liability for any amount assessed against him and collected, or to recover any such amount collected from him, under this section.

(Added Pub. L. 93-647, §101(b)(1), Jan. 4, 1975, 88 Stat. 2358; amended Pub. L. 94-455, title XIX, §1906(b)(13)(A), Oct. 4, 1976, 90 Stat. 1834; Pub. L. 97-35, title XXIII, §2332(g), Aug. 13, 1981, 95 Stat. 862; Pub. L. 104-193, title III, §361(a), Aug. 22, 1996, 110 Stat. 2242.)

REFERENCES IN TEXT

Section 452(b) of the Social Security Act, referred to in subsec. (a), is classified to section 652(b) of Title 42, The Public Health and Welfare.

AMENDMENTS

1996—Subsec. (a). Pub. L. 104-193, §361(a)(4), substituted “Secretary of Health and Human Services” for “Secretary of Health, Education, and Welfare” in two places in introductory provisions.

Subsec. (a)(5). Pub. L. 104-193, §361(a)(1)–(3), added par. (5).

1981—Subsec. (a)(4). Pub. L. 97-35 inserted reference to administrative order.

1976—Subsecs. (a), (b). Pub. L. 94-455 struck out “or his delegate” after “Secretary” wherever appearing.

EFFECTIVE DATE OF 1996 AMENDMENT

Section 361(b) of Pub. L. 104-193 provided that: “The amendments made by this section [amending this section] shall become effective October 1, 1997.”

For provisions relating to effective date of title III of Pub. L. 104-193, see section 395(a)–(c) of Pub. L. 104-193, set out as a note under section 654 of Title 42, The Public Health and Welfare.

EFFECTIVE DATE OF 1981 AMENDMENT

Amendment by Pub. L. 97-35 effective, except as otherwise specifically provided, on Oct. 1, 1981, see section 2336 of Pub. L. 97-35, set out as a note under section 651 of Title 42, The Public Health and Welfare.

EFFECTIVE DATE

Section effective Aug. 1, 1975, see section 101(f) of Pub. L. 93-647, set out as a note under section 651 of Title 42, the Public Health and Welfare.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in title 42 section 652.

Subchapter B—Receipt of Payment

Sec.	
6311.	Payment of tax by commercially acceptable means.
[6312.	Repealed.]
6313.	Fractional parts of a cent.
6314.	Receipt for taxes.
6315.	Payments of estimated income tax.
6316.	Payment by foreign currency.
6317.	Payments of Federal unemployment tax for calendar quarter.

AMENDMENTS

1997—Pub. L. 105-34, title XII, §1205(b), Aug. 5, 1997, 111 Stat. 998, substituted “Payment of tax by commercially acceptable means” for “Payment by check or money order” in item 6311.

1971—Pub. L. 92-5, title I, §4(a)(2), Mar. 17, 1971, 85 Stat. 5, struck out item 6312 “Payment by United States notes and certificates of indebtedness”.

1969—Pub. L. 91-53, §2(f)(2), Aug. 7, 1969, 83 Stat. 93, added item 6317.

REPEALS

Pub. L. 92-5, title I, §4(a)(2), Mar. 17, 1971, 85 Stat. 5, which struck out item 6312, was repealed by Pub. L. 97-258, §5(b), Sept. 13, 1982, 96 Stat. 1068, 1081.

§ 6311. Payment of tax by commercially acceptable means

(a) Authority to receive

It shall be lawful for the Secretary to receive for internal revenue taxes (or in payment for internal revenue stamps) any commercially acceptable means that the Secretary deems appropriate to the extent and under the conditions provided in regulations prescribed by the Secretary.

(b) Ultimate liability

If a check, money order, or other method of payment, including payment by credit card, debit card, or charge card so received is not duly paid, or is paid and subsequently charged back to the Secretary, the person by whom such check, or money order, or other method of payment has been tendered shall remain liable for the payment of the tax or for the stamps, and for all legal penalties and additions, to the same extent as if such check, money order, or other method of payment had not been tendered.

(c) Liability of banks and others

If any certified, treasurer’s, or cashier’s check (or other guaranteed draft), or any money order, or any other means of payment that has been guaranteed by a financial institution (such as a credit card, debit card, or charge card transaction which has been guaranteed expressly by a financial institution) so received is not duly paid, the United States shall, in addition to its right to exact payment from the party originally indebted therefor, have a lien for—

- (1) the amount of such check (or draft) upon all assets of the financial institution on which drawn,
- (2) the amount of such money order upon all the assets of the issuer thereof, or
- (3) the guaranteed amount of any other transaction upon all the assets of the institution making such guarantee,

and such amount shall be paid out of such assets in preference to any other claims whatsoever against such financial institution, issuer, or guaranteeing institution, except the necessary costs and expenses of administration and the reimbursement of the United States for the amount expended in the redemption of the circulating notes of such financial institution.

(d) Payment by other means

(1) Authority to prescribe regulations

The Secretary shall prescribe such regulations as the Secretary deems necessary to receive payment by commercially acceptable means, including regulations that—

- (A) specify which methods of payment by commercially acceptable means will be acceptable,
- (B) specify when payment by such means will be considered received,
- (C) identify types of nontax matters related to payment by such means that are to be resolved by persons ultimately liable for payment and financial intermediaries, without the involvement of the Secretary, and
- (D) ensure that tax matters will be resolved by the Secretary, without the involvement of financial intermediaries.

(2) Authority to enter into contracts

Notwithstanding section 3718(f) of title 31, United States Code, the Secretary is authorized to enter into contracts to obtain services related to receiving payment by other means where cost beneficial to the Government. The Secretary may not pay any fee or provide any other consideration under any such contract for the use of credit, debit, or charge cards for the payment of taxes imposed by subtitle A.

(3) Special provisions for use of credit cards

If use of credit cards is accepted as a method of payment of taxes pursuant to subsection (a)—

(A) a payment of internal revenue taxes (or a payment for internal revenue stamps) by a person by use of a credit card shall not be subject to section 161 of the Truth in Lending Act (15 U.S.C. 1666), or to any similar provisions of State law, if the error alleged by the person is an error relating to the underlying tax liability, rather than an error relating to the credit card account such as a computational error or numerical transposition in the credit card transaction or an issue as to whether the person authorized payment by use of the credit card,

(B) a payment of internal revenue taxes (or a payment for internal revenue stamps) shall not be subject to section 170 of the Truth in Lending Act (15 U.S.C. 1666i), or to any similar provisions of State law,

(C) a payment of internal revenue taxes (or a payment for internal revenue stamps) by a person by use of a debit card shall not be subject to section 908 of the Electronic Fund Transfer Act (15 U.S.C. 1693f), or to any similar provisions of State law, if the error alleged by the person is an error relating to the underlying tax liability, rather than an error relating to the debit card account such as a computational error or numerical transposition in the debit card transaction or an issue as to whether the person authorized payment by use of the debit card,

(D) the term “creditor” under section 103(f) of the Truth in Lending Act (15 U.S.C. 1602(f)) shall not include the Secretary with respect to credit card transactions in payment of internal revenue taxes (or payment for internal revenue stamps), and

(E) notwithstanding any other provision of law to the contrary, in the case of payment made by credit card or debit card transaction of an amount owed to a person as the result of the correction of an error under section 161 of the Truth in Lending Act (15 U.S.C. 1666) or section 908 of the Electronic Fund Transfer Act (15 U.S.C. 1693f), the Secretary is authorized to provide such amount to such person as a credit to that person's credit card or debit card account through the applicable credit card or debit card system.

(e) Confidentiality of information**(1) In general**

Except as otherwise authorized by this subsection, no person may use or disclose any information relating to credit or debit card

transactions obtained pursuant to section 6103(k)(9) other than for purposes directly related to the processing of such transactions, or the billing or collection of amounts charged or debited pursuant thereto.

(2) Exceptions

(A) Debit or credit card issuers or others acting on behalf of such issuers may also use and disclose such information for purposes directly related to servicing an issuer's accounts.

(B) Debit or credit card issuers or others directly involved in the processing of credit or debit card transactions or the billing or collection of amounts charged or debited thereto may also use and disclose such information for purposes directly related to—

- (i) statistical risk and profitability assessment;
- (ii) transferring receivables, accounts, or interest therein;
- (iii) auditing the account information;
- (iv) complying with Federal, State, or local law; and
- (v) properly authorized civil, criminal, or regulatory investigation by Federal, State, or local authorities.

(3) Procedures

Use and disclosure of information under this paragraph shall be made only to the extent authorized by written procedures promulgated by the Secretary.

(4) Cross reference

For provision providing for civil damages for violation of paragraph (1), see section 7431.

(Aug. 16, 1954, ch. 736, 68A Stat. 777; Pub. L. 94-455, title XIX, § 1906(b)(13)(A), Oct. 4, 1976, 90 Stat. 1834; Pub. L. 98-369, div. A, title IV, § 448(a), July 18, 1984, 98 Stat. 817; Pub. L. 105-34, title XII, § 1205(a), Aug. 5, 1997, 111 Stat. 995; Pub. L. 105-206, title VI, § 6012(b)(1), July 22, 1998, 112 Stat. 819; Pub. L. 105-277, div. J, title IV, § 4003(k), Oct. 21, 1998, 112 Stat. 2681-910.)

AMENDMENTS

1998—Subsec. (d)(2). Pub. L. 105-277 substituted “under any such contract for the use of credit, debit, or charge cards for the payment of taxes imposed by subtitle A” for “under such contracts”.

Subsec. (e)(1). Pub. L. 105-206 substituted “section 6103(k)(9)” for “section 6103(k)(8)”.

1997—Pub. L. 105-34 amended section catchline and text generally, substituting provisions relating to payment of tax by commercially acceptable means for provisions consisting of subsecs. (a) and (b) relating to payment by check or money order and liability if a check or money order received is not duly paid.

1984—Subsec. (b)(2). Pub. L. 98-369 substituted “or cashier's check (or other guaranteed draft)” for “or cashier's check”, “the amount of such check (or draft)” for “the amount of such check”, and “the financial institution” for “the bank or trust company”, and substituted “such financial institution” for “such bank” in two places.

1976—Subsec. (a). Pub. L. 94-455 struck out “or his delegate” after “Secretary” wherever appearing.

EFFECTIVE DATE OF 1998 AMENDMENTS

Amendment by Pub. L. 105-277 effective as if included in the provision of the Taxpayer Relief Act of 1997, Pub. L. 105-34, to which such amendment relates, see section 4003(l) of Pub. L. 105-277, set out as a note under section 86 of this title.

Amendment by Pub. L. 105-206 effective, except as otherwise provided, as if included in the provisions of the Taxpayer Relief Act of 1997, Pub. L. 105-34, to which such amendment relates, see section 6024 of Pub. L. 105-206, set out as a note under section 1 of this title.

EFFECTIVE DATE OF 1997 AMENDMENT

Amendment by Pub. L. 105-34 effective on the day 9 months after Aug. 5, 1997, see section 1205(d) of Pub. L. 105-34, set out as a note under section 6103 of this title.

EFFECTIVE DATE OF 1984 AMENDMENT

Section 448(b) of Pub. L. 98-369 provided that: “The amendments made by subsection (a) [amending this section] shall take effect on the date of the enactment of this Act [July 18, 1984].”

REGULATIONS

Pub. L. 105-206, title III, §3703, July 22, 1998, 112 Stat. 777, provided that: “The Secretary of the Treasury or the Secretary’s delegate shall establish such rules, regulations, and procedures as are necessary to allow payment of taxes by check or money order made payable to the United States Treasury.”

REQUIRED NOTICE OF CERTAIN PAYMENTS

Pub. L. 104-168, title XII, §1202, July 30, 1996, 110 Stat. 1470, provided that: “If any payment is received by the Secretary of the Treasury or his delegate from any taxpayer and the Secretary cannot associate such payment with such taxpayer, the Secretary shall make reasonable efforts to notify the taxpayer of such inability within 60 days after the receipt of such payment.”

CROSS REFERENCES

Penalty for tendering bad checks, see section 6657 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 6103, 6201, 7431 of this title.

[§ 6312. Repealed. Pub. L. 92-5, title I, § 4(a)(2), Mar. 17, 1971, 85 Stat. 5]

Section, act Aug. 16, 1954, ch. 736, 68A Stat. 777, permitted the Secretary to receive Treasury bills, notes and certificates of indebtedness issued by the United States in payment of any internal revenue taxes or stamps.

EFFECTIVE DATE OF REPEAL

Section 4(a) of Pub. L. 92-5 provided that the repeal of this section is effective with respect to obligations issued after Mar. 3, 1971.

REPEALS

Pub. L. 92-5, title I, §4(a)(2), Mar. 17, 1971, 85 Stat. 5, which repealed this section and provided for the effective date of that repeal, was itself repealed by Pub. L. 97-258, §5(b), Sept. 13, 1982, 96 Stat. 1068, 1081.

§ 6313. Fractional parts of a cent

In the payment of any tax imposed by this title, a fractional part of a cent shall be disregarded unless it amounts to one-half cent or more, in which case it shall be increased to 1 cent.

(Aug. 16, 1954, ch. 736, 68A Stat. 778; Pub. L. 94-455, title XIX, §1906(a)(19), Oct. 4, 1976, 90 Stat. 1825.)

AMENDMENTS

1976—Pub. L. 94-455 struck out “not payable by stamp” after “title”.

CROSS REFERENCES

Fractional parts of a dollar, see section 7504 of this title.

§ 6314. Receipt for taxes

(a) General rule

The Secretary shall, upon request, give receipts for all sums collected by him, excepting only when the same are in payment for stamps sold and delivered; but no receipt shall be issued in lieu of a stamp representing a tax.

(b) Duplicate receipts for payment of estate taxes

The Secretary shall, upon request, give to the person paying the tax under chapter 11 (relating to the estate tax) duplicate receipts, either of which shall be sufficient evidence of such payment, and shall entitle the executor to be credited and allowed the amount thereof by any court having jurisdiction to audit or settle his accounts.

(c) Cross references

(1) For receipt required to be furnished by employer to employee with respect to employment taxes, see section 6051.

(2) For receipt of discharge of fiduciary from personal liability, see section 2204.

(Aug. 16, 1954, ch. 736, 68A Stat. 778; Pub. L. 91-614, title I, §101(d)(2), Dec. 31, 1970, 84 Stat. 1837; Pub. L. 94-455, title XIX, §1906(b)(13)(A), Oct. 4, 1976, 90 Stat. 1834.)

AMENDMENTS

1976—Pub. L. 94-455 struck out “or his delegate” after “Secretary” wherever appearing.

1970—Subsec. (c)(2). Pub. L. 91-614 substituted “fiduciary” for “executor”.

EFFECTIVE DATE OF 1970 AMENDMENT

Amendment by Pub. L. 91-614 applicable with respect to decedents dying after Dec. 31, 1970, see section 101(j) of Pub. L. 91-614, set out as a note under section 2032 of this title.

§ 6315. Payments of estimated income tax

Payment of the estimated income tax, or any installment thereof, shall be considered payment on account of the income taxes imposed by subtitle A for the taxable year.

(Aug. 16, 1954, ch. 736, 68A Stat. 778.)

§ 6316. Payment by foreign currency

The Secretary is authorized in his discretion to allow payment of taxes in the currency of a foreign country under such circumstances and subject to such conditions as the Secretary may by regulations prescribe.

(Aug. 16, 1954, ch. 736, 68A Stat. 778; Pub. L. 94-455, title XIX, §1906(b)(13)(A), Oct. 4, 1976, 90 Stat. 1834.)

AMENDMENTS

1976—Pub. L. 94-455 struck out “or his delegate” after “Secretary” in two places.

§ 6317. Payments of Federal unemployment tax for calendar quarter

Payment of Federal unemployment tax for a calendar quarter or other period within a calendar year pursuant to section 6157 shall be considered payment on account of the tax imposed by chapter 23 of such calendar year.

(Added Pub. L. 91-53, §2(c), Aug. 7, 1969, 83 Stat. 92; amended Pub. L. 98-76, title II, §231(b)(2)(B),

Aug. 12, 1983, 97 Stat. 429; Pub. L. 100-647, title VII, § 7106(c)(3), Nov. 10, 1988, 102 Stat. 3773.)

AMENDMENTS

1988—Pub. L. 100-647 struck out “or tax imposed by section 3321” after “unemployment tax” and “and 23A, as the case may be,” after “chapter 23”.

1983—Pub. L. 98-76 inserted “or tax imposed by section 3321” after “Federal unemployment tax”, and substituted “chapter 23 and 23A, as the case may be,” for “chapter 23”.

EFFECTIVE DATE OF 1988 AMENDMENT

Amendment by Pub. L. 100-647 applicable to remuneration paid after Dec. 31, 1988, see section 7106(d) of Pub. L. 100-647, set out as a note under section 3321 of this title.

EFFECTIVE DATE OF 1983 AMENDMENT

Amendment by Pub. L. 98-76 applicable to remuneration paid after June 30, 1986, see section 231(d) of Pub. L. 98-76, set out as an Effective Date note under section 3321 of this title.

EFFECTIVE DATE

Section applicable with respect to calendar years beginning after Dec. 31, 1969, see section 4(a) of Pub. L. 91-53, set out as a note under section 6157 of this title.

Subchapter C—Lien for Taxes

Part

- I. Due process for liens.
- II. Liens.

AMENDMENTS

1998—Pub. L. 105-206, title III, § 3401(a), July 22, 1998, 112 Stat. 746, added part analysis.

SUBCHAPTER REFERRED TO IN OTHER SECTIONS

This subchapter is referred to in sections 2035, 6335 of this title.

PART I—DUE PROCESS FOR LIENS

Sec.

- 6320. Notice and opportunity for hearing upon filing of notice of lien.

AMENDMENTS

1998—Pub. L. 105-206, title III, § 3401(a), July 22, 1998, 112 Stat. 746, added part heading and analysis consisting of item 6320.

§ 6320. Notice and opportunity for hearing upon filing of notice of lien

(a) Requirement of notice

(1) In general

The Secretary shall notify in writing the person described in section 6321 of the filing of a notice of lien under section 6323.

(2) Time and method for notice

The notice required under paragraph (1) shall be—

- (A) given in person;
- (B) left at the dwelling or usual place of business of such person; or
- (C) sent by certified or registered mail to such person's last known address,

not more than 5 business days after the day of the filing of the notice of lien.

(3) Information included with notice

The notice required under paragraph (1) shall include in simple and nontechnical terms—

(A) the amount of unpaid tax;

(B) the right of the person to request a hearing during the 30-day period beginning on the day after the 5-day period described in paragraph (2);

(C) the administrative appeals available to the taxpayer with respect to such lien and the procedures relating to such appeals; and

(D) the provisions of this title and procedures relating to the release of liens on property.

(b) Right to fair hearing

(1) In general

If the person requests a hearing under subsection (a)(3)(B), such hearing shall be held by the Internal Revenue Service Office of Appeals.

(2) One hearing per period

A person shall be entitled to only one hearing under this section with respect to the taxable period to which the unpaid tax specified in subsection (a)(3)(A) relates.

(3) Impartial officer

The hearing under this subsection shall be conducted by an officer or employee who has had no prior involvement with respect to the unpaid tax specified in subsection (a)(3)(A) before the first hearing under this section or section 6330. A taxpayer may waive the requirement of this paragraph.

(4) Coordination with section 6330

To the extent practicable, a hearing under this section shall be held in conjunction with a hearing under section 6330.

(c) Conduct of hearing; review; suspensions

For purposes of this section, subsections (c), (d) (other than paragraph (2)(B) thereof), and (e) of section 6330 shall apply.

(Added Pub. L. 105-206, title III, § 3401(a), July 22, 1998, 112 Stat. 746.)

EFFECTIVE DATE

Pub. L. 105-206, title III, § 3401(d), July 22, 1998, 112 Stat. 750, provided that: “The amendments made by this section [enacting this section and section 6330 of this title and amending section 7443A of this title] shall apply to collection actions initiated after the date which is 180 days after the date of the enactment of this Act [July 22, 1998].”

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 6330, 7443A, 7803 of this title.

PART II—LIENS

Sec.

- 6321. Lien for taxes.
- 6322. Period of lien.
- 6323. Validity and priority against certain persons.
- 6324. Special liens for estate and gift taxes.
- 6324A. Special lien for estate tax deferred under section 6166.
- 6324B. Special lien for additional estate tax attributable to farm, etc., valuation.
- 6325. Release of lien or discharge of property.
- 6326. Administrative appeal of liens.
- 6327. Cross references.

AMENDMENTS

1998—Pub. L. 105-206, title III, § 3401(a), July 22, 1998, 112 Stat. 747, added part heading.

1988—Pub. L. 100-647, title VI, § 6238(c), Nov. 10, 1988, 102 Stat. 3743, added item 6326 and redesignated former item 6326 as 6327.

1981—Pub. L. 97-34, title IV, § 422(e)(6)(D), Aug. 13, 1981, 95 Stat. 316, struck out “or 6166A” after “section 6166” in item 6324A.

1976—Pub. L. 94-455, title XX, §§ 2003(d)(2), 2004(f)(1), Oct. 4, 1976, 90 Stat. 1862, 1871, added items 6324A and 6324B.

1966—Pub. L. 89-719, title I, §§ 101(b)(1), 103(b), Nov. 2, 1966, 80 Stat. 1131, 1135, substituted “Validity and priority against certain persons” for “Validity against mortgagees, pledgees, purchasers, and judgment creditors” in item 6323, and struck out “partial” before “discharge” in item 6325.

§ 6321. Lien for taxes

If any person liable to pay any tax neglects or refuses to pay the same after demand, the amount (including any interest, additional amount, addition to tax, or assessable penalty, together with any costs that may accrue in addition thereto) shall be a lien in favor of the United States upon all property and rights to property, whether real or personal, belonging to such person.

(Aug. 16, 1954, ch. 736, 68A Stat. 779.)

SHORT TITLE

Pub. L. 89-719, § 1(a), Nov. 2, 1966, 80 Stat. 1125, provided that: “This Act [enacting sections 3505, 7425, 7426, and 7810 of this title, amending sections 545, 6322 to 6325, 6331, 6332, 6334, 6335, 6337 to 6339, 6342, 6343, 6502, 6503, 6532, 7402, 7403, 7421, 7424, 7505, 7506, and 7809 of this title, sections 1346, 1402, and 2410 of Title 28, Judiciary and Judicial Procedure, and section 270a of Title 40, Public Buildings, Property, and Works, redesignating section 7425 as 7427 of this title, and enacting provisions set out as notes under sections 6323 and 7424 of this title, and under section 1346 of Title 28] may be cited as the ‘Federal Tax Lien Act of 1966’.”

CROSS REFERENCES

Action to enforce lien or to subject property to payment of tax, see section 7403 of this title.

Additions to tax and additional amounts generally, see section 6651 et seq. of this title.

Assessable penalties, see section 6671 et seq. of this title.

Interest on nonpayment of tax, see section 6601 of this title.

Notice and demand for tax, see section 6303 of this title.

Payment on notice and demand, see section 6155 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 6320, 6322, 6323, 6325 of this title; title 29 section 1368; title 30 section 934.

§ 6322. Period of lien

Unless another date is specifically fixed by law, the lien imposed by section 6321 shall arise at the time the assessment is made and shall continue until the liability for the amount so assessed (or a judgment against the taxpayer arising out of such liability) is satisfied or becomes unenforceable by reason of lapse of time.

(Aug. 16, 1954, ch. 736, 68A Stat. 779; Pub. L. 89-719, title I, § 113(a), Nov. 2, 1966, 80 Stat. 1146.)

AMENDMENTS

1966—Pub. L. 89-719 inserted “(or a judgment against the taxpayer arising out of such liability)”.

EFFECTIVE DATE OF 1966 AMENDMENT

Amendment by Pub. L. 89-719 applicable after Nov. 2, 1966, regardless of when title or lien of United States arose or when lien or interest of another person was acquired, with certain exceptions, see section 114(a)-(c) of Pub. L. 89-719, set out as a note under section 6323 of this title.

CROSS REFERENCES

Action to enforce lien or to subject property to payment of tax, see section 7403 of this title.

§ 6323. Validity and priority against certain persons

(a) Purchasers, holders of security interests, mechanic's lienors, and judgment lien creditors

The lien imposed by section 6321 shall not be valid as against any purchaser, holder of a security interest, mechanic's lienor, or judgment lien creditor until notice thereof which meets the requirements of subsection (f) has been filed by the Secretary.

(b) Protection for certain interests even though notice filed

Even though notice of a lien imposed by section 6321 has been filed, such lien shall not be valid—

(1) Securities

With respect to a security (as defined in subsection (h)(4))—

(A) as against a purchaser of such security who at the time of purchase did not have actual notice or knowledge of the existence of such lien; and

(B) as against a holder of a security interest in such security who, at the time such interest came into existence, did not have actual notice or knowledge of the existence of such lien.

(2) Motor vehicles

With respect to a motor vehicle (as defined in subsection (h)(3)), as against a purchaser of such motor vehicle, if—

(A) at the time of the purchase such purchaser did not have actual notice or knowledge of the existence of such lien, and

(B) before the purchaser obtains such notice or knowledge, he has acquired possession of such motor vehicle and has not thereafter relinquished possession of such motor vehicle to the seller or his agent.

(3) Personal property purchased at retail

With respect to tangible personal property purchased at retail, as against a purchaser in the ordinary course of the seller's trade or business, unless at the time of such purchase such purchaser intends such purchase to (or knows such purchase will) hinder, evade, or defeat the collection of any tax under this title.

(4) Personal property purchased in casual sale

With respect to household goods, personal effects, or other tangible personal property described in section 6334(a) purchased (not for resale) in a casual sale for less than \$1,000, as against the purchaser, but only if such purchaser does not have actual notice or knowledge (A) of the existence of such lien, or (B) that this sale is one of a series of sales.

(5) Personal property subject to possessory lien

With respect to tangible personal property subject to a lien under local law securing the reasonable price of the repair or improvement of such property, as against a holder of such a lien, if such holder is, and has been, continuously in possession of such property from the time such lien arose.

(6) Real property tax and special assessment liens

With respect to real property, as against a holder of a lien upon such property, if such lien is entitled under local law to priority over security interests in such property which are prior in time, and such lien secures payment of—

(A) a tax of general application levied by any taxing authority based upon the value of such property;

(B) a special assessment imposed directly upon such property by any taxing authority, if such assessment is imposed for the purpose of defraying the cost of any public improvement; or

(C) charges for utilities or public services furnished to such property by the United States, a State or political subdivision thereof, or an instrumentality of any one or more of the foregoing.

(7) Residential property subject to a mechanic's lien for certain repairs and improvements

With respect to real property subject to a lien for repair or improvement of a personal residence (containing not more than four dwelling units) occupied by the owner of such residence, as against a mechanic's lienor, but only if the contract price on the contract with the owner is not more than \$5,000.

(8) Attorneys' liens

With respect to a judgment or other amount in settlement of a claim or of a cause of action, as against an attorney who, under local law, holds a lien upon or a contract enforceable against such judgment or amount, to the extent of his reasonable compensation for obtaining such judgment or procuring such settlement, except that this paragraph shall not apply to any judgment or amount in settlement of a claim or of a cause of action against the United States to the extent that the United States offsets such judgment or amount against any liability of the taxpayer to the United States.

(9) Certain insurance contracts

With respect to a life insurance, endowment, or annuity contract, as against the organization which is the insurer under such contract, at any time—

(A) before such organization had actual notice or knowledge of the existence of such lien;

(B) after such organization had such notice or knowledge, with respect to advances required to be made automatically to maintain such contract in force under an agreement entered into before such organization had such notice or knowledge; or

(C) after satisfaction of a levy pursuant to section 6332(b), unless and until the Secretary delivers to such organization a notice, executed after the date of such satisfaction, of the existence of such lien.

(10) Deposit-secured loans

With respect to a savings deposit, share, or other account with an institution described in section 581 or 591, to the extent of any loan made by such institution without actual notice or knowledge of the existence of such lien, as against such institution, if such loan is secured by such account.

(c) Protection for certain commercial transactions financing agreements, etc.**(1) In general**

To the extent provided in this subsection, even though notice of a lien imposed by section 6321 has been filed, such lien shall not be valid with respect to a security interest which came into existence after tax lien filing but which—

(A) is in qualified property covered by the terms of a written agreement entered into before tax lien filing and constituting—

(i) a commercial transactions financing agreement,

(ii) a real property construction or improvement financing agreement, or

(iii) an obligatory disbursement agreement, and

(B) is protected under local law against a judgment lien arising, as of the time of tax lien filing, out of an unsecured obligation.

(2) Commercial transactions financing agreement

For purposes of this subsection—

(A) Definition

The term “commercial transactions financing agreement” means an agreement (entered into by a person in the course of his trade or business)—

(i) to make loans to the taxpayer to be secured by commercial financing security acquired by the taxpayer in the ordinary course of his trade or business, or

(ii) to purchase commercial financing security (other than inventory) acquired by the taxpayer in the ordinary course of his trade or business;

but such an agreement shall be treated as coming within the term only to the extent that such loan or purchase is made before the 46th day after the date of tax lien filing or (if earlier) before the lender or purchaser had actual notice or knowledge of such tax lien filing.

(B) Limitation on qualified property

The term “qualified property”, when used with respect to a commercial transactions financing agreement, includes only commercial financing security acquired by the taxpayer before the 46th day after the date of tax lien filing.

(C) Commercial financing security defined

The term “commercial financing security” means (i) paper of a kind ordinarily arising

in commercial transactions, (ii) accounts receivable, (iii) mortgages on real property, and (iv) inventory.

(D) Purchaser treated as acquiring security interest

A person who satisfies subparagraph (A) by reason of clause (ii) thereof shall be treated as having acquired a security interest in commercial financing security

(3) Real property construction or improvement financing agreement

For purposes of this subsection—

(A) Definition

The term “real property construction or improvement financing agreement” means an agreement to make cash disbursements to finance—

- (i) the construction or improvement of real property,
- (ii) a contract to construct or improve real property, or
- (iii) the raising or harvesting of a farm crop or the raising of livestock or other animals.

For purposes of clause (iii), the furnishing of goods and services shall be treated as the disbursement of cash.

(B) Limitation on qualified property

The term “qualified property”, when used with respect to a real property construction or improvement financing agreement, includes only—

- (i) in the case of subparagraph (A)(i), the real property with respect to which the construction or improvement has been or is to be made,
- (ii) in the case of subparagraph (A)(ii), the proceeds of the contract described therein, and
- (iii) in the case of subparagraph (A)(iii), property subject to the lien imposed by section 6321 at the time of tax lien filing and the crop or the livestock or other animals referred to in subparagraph (A)(iii).

(4) Obligatory disbursement agreement

For purposes of this subsection—

(A) Definition

The term “obligatory disbursement agreement” means an agreement (entered into by a person in the course of his trade or business) to make disbursements, but such an agreement shall be treated as coming within the term only to the extent of disbursements which are required to be made by reason of the intervention of the rights of a person other than the taxpayer.

(B) Limitation on qualified property

The term “qualified property”, when used with respect to an obligatory disbursement agreement, means property subject to the lien imposed by section 6321 at the time of tax lien filing and (to the extent that the acquisition is directly traceable to the disbursements referred to in subparagraph (A)) property acquired by the taxpayer after tax lien filing.

(C) Special rules for surety agreements

Where the obligatory disbursement agreement is an agreement ensuring the performance of a contract between the taxpayer and another person—

- (i) the term “qualified property” shall be treated as also including the proceeds of the contract the performance of which was ensured, and
- (ii) if the contract the performance of which was ensured was a contract to construct or improve real property, to produce goods, or to furnish services, the term “qualified property” shall be treated as also including any tangible personal property used by the taxpayer in the performance of such ensured contract.

(d) 45-day period for making disbursements

Even though notice of a lien imposed by section 6321 has been filed, such lien shall not be valid with respect to a security interest which came into existence after tax lien filing by reason of disbursements made before the 46th day after the date of tax lien filing, or (if earlier) before the person making such disbursements had actual notice or knowledge of tax lien filing, but only if such security interest—

- (1) is in property (A) subject, at the time of tax lien filing, to the lien imposed by section 6321, and (B) covered by the terms of a written agreement entered into before tax lien filing, and
- (2) is protected under local law against a judgment lien arising, as of the time of tax lien filing, out of an unsecured obligation.

(e) Priority of interest and expenses

If the lien imposed by section 6321 is not valid as against a lien or security interest, the priority of such lien or security interest shall extend to—

- (1) any interest or carrying charges upon the obligation secured,
- (2) the reasonable charges and expenses of an indenture trustee or agent holding the security interest for the benefit of the holder of the security interest,
- (3) the reasonable expenses, including reasonable compensation for attorneys, actually incurred in collecting or enforcing the obligation secured,
- (4) the reasonable costs of insuring, preserving, or repairing the property to which the lien or security interest relates,
- (5) the reasonable costs of insuring payment of the obligation secured, and
- (6) amounts paid to satisfy any lien on the property to which the lien or security interest relates, but only if the lien so satisfied is entitled to priority over the lien imposed by section 6321,

to the extent that, under local law, any such item has the same priority as the lien or security interest to which it relates.

(f) Place for filing notice; form

(1) Place for filing

The notice referred to in subsection (a) shall be filed—

(A) Under State laws**(i) Real property**

In the case of real property, in one office within the State (or the county, or other governmental subdivision), as designated by the laws of such State, in which the property subject to the lien is situated; and

(ii) Personal property

In the case of personal property, whether tangible or intangible, in one office within the State (or the county, or other governmental subdivision), as designated by the laws of such State, in which the property subject to the lien is situated, except that State law merely conforming to or reenacting Federal law establishing a national filing system does not constitute a second office for filing as designated by the laws of such State; or

(B) With clerk of district court

In the office of the clerk of the United States district court for the judicial district in which the property subject to the lien is situated, whenever the State has not by law designated one office which meets the requirements of subparagraph (A); or

(C) With Recorder of Deeds of the District of Columbia

In the office of the Recorder of Deeds of the District of Columbia, if the property subject to the lien is situated in the District of Columbia.

(2) Situs of property subject to lien

For purposes of paragraphs (1) and (4), property shall be deemed to be situated—

(A) Real property

In the case of real property, at its physical location; or

(B) Personal property

In the case of personal property, whether tangible or intangible, at the residence of the taxpayer at the time the notice of lien is filed.

For purposes of paragraph (2)(B), the residence of a corporation or partnership shall be deemed to be the place at which the principal executive office of the business is located, and the residence of a taxpayer whose residence is without the United States shall be deemed to be in the District of Columbia.

(3) Form

The form and content of the notice referred to in subsection (a) shall be prescribed by the Secretary. Such notice shall be valid notwithstanding any other provision of law regarding the form or content of a notice of lien.

(4) Indexing required with respect to certain real property

In the case of real property, if—

(A) under the laws of the State in which the real property is located, a deed is not valid as against a purchaser of the property who (at the time of purchase) does not have actual notice or knowledge of the existence

of such deed unless the fact of filing of such deed has been entered and recorded in a public index at the place of filing in such a manner that a reasonable inspection of the index will reveal the existence of the deed, and

(B) there is maintained (at the applicable office under paragraph (1)) an adequate system for the public indexing of Federal tax liens,

then the notice of lien referred to in subsection (a) shall not be treated as meeting the filing requirements under paragraph (1) unless the fact of filing is entered and recorded in the index referred to in subparagraph (B) in such a manner that a reasonable inspection of the index will reveal the existence of the lien.

(5) National filing systems

The filing of a notice of lien shall be governed solely by this title and shall not be subject to any other Federal law establishing a place or places for the filing of liens or encumbrances under a national filing system.

(g) Refiling of notice

For purposes of this section—

(1) General rule

Unless notice of lien is refiled in the manner prescribed in paragraph (2) during the required refiling period, such notice of lien shall be treated as filed on the date on which it is filed (in accordance with subsection (f)) after the expiration of such refiling period.

(2) Place for filing

A notice of lien refiled during the required refiling period shall be effective only—

(A) if—

(i) such notice of lien is refiled in the office in which the prior notice of lien was filed, and

(ii) in the case of real property, the fact of refiling is entered and recorded in an index to the extent required by subsection (f)(4); and

(B) in any case in which, 90 days or more prior to the date of a refiling of notice of lien under subparagraph (A), the Secretary received written information (in the manner prescribed in regulations issued by the Secretary) concerning a change in the taxpayer's residence, if a notice of such lien is also filed in accordance with subsection (f) in the State in which such residence is located.

(3) Required refiling period

In the case of any notice of lien, the term “required refiling period” means—

(A) the one-year period ending 30 days after the expiration of 10 years after the date of the assessment of the tax, and

(B) the one-year period ending with the expiration of 10 years after the close of the preceding required refiling period for such notice of lien.

(4) Transitional rule

Notwithstanding paragraph (3), if the assessment of the tax was made before January 1, 1962, the first required refiling period shall be the calendar year 1967.

(h) Definitions

For purposes of this section and section 6324—

(1) Security interest

The term “security interest” means any interest in property acquired by contract for the purpose of securing payment or performance of an obligation or indemnifying against loss or liability. A security interest exists at any time (A) if, at such time, the property is in existence and the interest has become protected under local law against a subsequent judgment lien arising out of an unsecured obligation, and (B) to the extent that, at such time, the holder has parted with money or money’s worth.

(2) Mechanic’s lienor

The term “mechanic’s lienor” means any person who under local law has a lien on real property (or on the proceeds of a contract relating to real property) for services, labor, or materials furnished in connection with the construction or improvement of such property. For purposes of the preceding sentence, a person has a lien on the earliest date such lien becomes valid under local law against subsequent purchasers without actual notice, but not before he begins to furnish the services, labor, or materials.

(3) Motor vehicle

The term “motor vehicle” means a self-propelled vehicle which is registered for highway use under the laws of any State or foreign country.

(4) Security

The term “security” means any bond, debenture, note, or certificate or other evidence of indebtedness, issued by a corporation or a government or political subdivision thereof, with interest coupons or in registered form, share of stock, voting trust certificate, or any certificate of interest or participation in, certificate of deposit or receipt for, temporary or interim certificate for, or warrant or right to subscribe to or purchase, any of the foregoing; negotiable instrument; or money.

(5) Tax lien filing

The term “tax lien filing” means the filing of notice (referred to in subsection (a)) of the lien imposed by section 6321.

(6) Purchaser

The term “purchaser” means a person who, for adequate and full consideration in money or money’s worth, acquires an interest (other than a lien or security interest) in property which is valid under local law against subsequent purchasers without actual notice. In applying the preceding sentence for purposes of subsection (a) of this section, and for purposes of section 6324—

- (A) a lease of property,
- (B) a written executory contract to purchase or lease property,
- (C) an option to purchase or lease property or any interest therein, or
- (D) an option to renew or extend a lease of property,

which is not a lien or security interest shall be treated as an interest in property.

(i) Special rules**(1) Actual notice or knowledge**

For purposes of this subchapter, an organization shall be deemed for purposes of a particular transaction to have actual notice or knowledge of any fact from the time such fact is brought to the attention of the individual conducting such transaction, and in any event from the time such fact would have been brought to such individual’s attention if the organization had exercised due diligence. An organization exercises due diligence if it maintains reasonable routines for communicating significant information to the person conducting the transaction and there is reasonable compliance with the routine. Due diligence does not require an individual acting for the organization to communicate information unless such communication is part of his regular duties or unless he has reason to know of the transaction and that the transaction would be materially affected by the information.

(2) Subrogation

Where, under local law, one person is subrogated to the rights of another with respect to a lien or interest, such person shall be subrogated to such rights for purposes of any lien imposed by section 6321 or 6324.

(3) Forfeitures

For purposes of this subchapter, a forfeiture under local law of property seized by a law enforcement agency of a State, county, or other local governmental subdivision shall relate back to the time of seizure, except that this paragraph shall not apply to the extent that under local law the holder of an intervening claim or interest would have priority over the interest of the State, county, or other local governmental subdivision in the property.

(4) Cost-of-living adjustment

In the case of notices of liens imposed by section 6321 which are filed in any calendar year after 1998, each of the dollar amounts under paragraph (4) or (7) of subsection (b) shall be increased by an amount equal to—

(A) such dollar amount, multiplied by

(B) the cost-of-living adjustment determined under section 1(f)(3) for the calendar year, determined by substituting “calendar year 1996” for “calendar year 1992” in subparagraph (B) thereof.

If any amount as adjusted under the preceding sentence is not a multiple of \$10, such amount shall be rounded to the nearest multiple of \$10.

(j) Withdrawal of notice in certain circumstances**(1) In general**

The Secretary may withdraw a notice of a lien filed under this section and this chapter shall be applied as if the withdrawn notice had not been filed, if the Secretary determines that—

(A) the filing of such notice was premature or otherwise not in accordance with administrative procedures of the Secretary,

(B) the taxpayer has entered into an agreement under section 6159 to satisfy the tax liability for which the lien was imposed by

means of installment payments, unless such agreement provides otherwise,

(C) the withdrawal of such notice will facilitate the collection of the tax liability, or

(D) with the consent of the taxpayer or the National Taxpayer Advocate, the withdrawal of such notice would be in the best interests of the taxpayer (as determined by the National Taxpayer Advocate) and the United States.

Any such withdrawal shall be made by filing notice at the same office as the withdrawn notice. A copy of such notice of withdrawal shall be provided to the taxpayer.

(2) Notice to credit agencies, etc.

Upon written request by the taxpayer with respect to whom a notice of a lien was withdrawn under paragraph (1), the Secretary shall promptly make reasonable efforts to notify credit reporting agencies, and any financial institution or creditor whose name and address is specified in such request, of the withdrawal of such notice. Any such request shall be in such form as the Secretary may prescribe.

(Aug. 16, 1954, ch. 736, 68A Stat. 779; Pub. L. 88-272, title II, §236(a), (c)(1), Feb. 26, 1964, 78 Stat. 127, 128; Pub. L. 89-493, §17(a), July 5, 1966, 80 Stat. 266; Pub. L. 89-719, title I, §101(a), Nov. 2, 1966, 80 Stat. 1125; Pub. L. 94-455, title XII, §1202(h)(2), title XIX, §1906(b)(13)(A), title XX, §2008(c), Oct. 4, 1976, 90 Stat. 1688, 1834, 1892; Pub. L. 95-600, title VII, §702(q)(1), (2), Nov. 6, 1978, 92 Stat. 2937, 2938; Pub. L. 99-514, title XV, §1569(a), Oct. 22, 1986, 100 Stat. 2764; Pub. L. 100-647, title I, §1015(s)(1), Nov. 10, 1988, 102 Stat. 3573; Pub. L. 101-508, title XI, §§11317(b), 11704(a)(26), Nov. 5, 1990, 104 Stat. 1388-458, 1388-519; Pub. L. 104-168, title V, §501(a), July 30, 1996, 110 Stat. 1460; Pub. L. 105-206, title I, §1102(d)(1)(A), title III, §3435(a), (b), July 22, 1998, 112 Stat. 704, 760, 761.)

ADJUSTMENT OF APPLICABLE DOLLAR AMOUNTS IN DETERMINING VALIDITY OF FEDERAL TAX LIENS FOR CALENDAR YEAR 1999

For adjustment of applicable dollar amounts under subsec. (b)(4), (7) of this section in determining validity of certain Federal tax liens for calendar year 1999, see section 3.22 of Revenue Procedure 98-61, set out as a note under section 1 of this title.

AMENDMENTS

1998—Subsec. (b)(4). Pub. L. 105-206, §3435(a)(1)(A), substituted “\$1,000” for “\$250”.

Subsec. (b)(7). Pub. L. 105-206, §3435(a)(1)(B), substituted “\$5,000” for “\$1,000”.

Subsec. (b)(10). Pub. L. 105-206, §3435(b), in heading substituted “Deposit-secured loans” for “Passbook loans”, and in text struck out “, evidenced by a passbook,” after “other account” and substituted period at end for “and if such institution has been continuously in possession of such passbook from the time the loan is made.”

Subsec. (i)(4). Pub. L. 105-206, §3435(a)(2), added par. (4).

Subsec. (j)(1)(D). Pub. L. 105-206, §1102(d)(1)(A), substituted “National Taxpayer Advocate” for “Taxpayer Advocate” in two places.

1996—Subsec. (j). Pub. L. 104-168 added subsec. (j).

1990—Subsec. (a). Pub. L. 101-508, §11704(a)(26), substituted “Purchasers” for “Purchases” in heading.

Subsec. (g)(3). Pub. L. 101-508, §11317(b), substituted “10 years” for “6 years” wherever appearing.

1988—Subsec. (f)(1)(A)(ii). Pub. L. 100-647, §1015(s)(1)(A), inserted exception that State law merely conforming to or reenacting Federal law establishing a national filing system does not constitute a second office for filing as designated by the laws of such State.

Subsec. (f)(5). Pub. L. 100-647, §1015(s)(1)(B), added par. (5).

1986—Subsec. (i)(3). Pub. L. 99-514 added par. (3).

1978—Subsec. (f)(4). Pub. L. 95-600, §702(q)(1), in heading substituted “Indexing required with respect to certain real property” for “Index” and in text inserted provisions relating to the validity of a deed, under the laws of the State in which the real property is located, as against a purchaser who does not have actual notice or knowledge of the existence of such deed and provisions relating to the maintenance of an adequate system for the public indexing of Federal tax liens.

Subsec. (g)(2)(A). Pub. L. 95-600, §702(q)(2), inserted reference to real property.

1976—Subsecs. (a), (b). Pub. L. 94-455, §1906(b)(13)(A), struck out “or his delegate” after “Secretary” wherever appearing.

Subsec. (f)(2). Pub. L. 94-455, §2008(c)(1)(B), inserted introductory reference to par. (4).

Subsec. (f)(3). Pub. L. 94-455, §1906(b)(13)(A), struck out “or his delegate” after “Secretary”.

Subsec. (f)(4). Pub. L. 94-455, §2008(c)(1)(A), added par. (4).

Subsec. (g)(2)(A), (B). Pub. L. 94-455, §§1906(b)(13)(A), 2008(c)(2), required the fact of refiling be entered and recorded in an index in accordance with subsec. (f)(4), and struck out “or his delegate” after “Secretary” wherever appearing.

Subsec. (i)(3). Pub. L. 94-455, §1202(h)(2), struck out par. (3) which related to a special rule respecting disclosure of amount of outstanding lien.

1966—Subsec. (a). Pub. L. 89-719 redesignated as subsec. (a) that part of former subsec. (a) which preceded pars. (1) to (3) thereof, and, in subsec. (a) as so redesignated, substituted holder of a security interest, mechanic’s lienor, and judgment lien creditor for mortgagee, pledgee, and judgment creditor, struck out reference to an exception provided in subsecs. (c) and (d), and inserted reference to requirements of subsec. (f).

Subsec. (a)(3). Pub. L. 89-493 substituted the Recorder of Deeds of the District of Columbia for the clerk of the United States District Court for the District of Columbia.

Subsec. (b)(1). Pub. L. 89-719 redesignated provisions of subsec. (c)(1) as subsec. (b)(1) and substituted “holder of a security interest” for “mortgagee and pledgee” and purchaser of such security interest for purchaser of such security for any adequate and full consideration in money or money’s worth.

Subsec. (b)(2). Pub. L. 89-719 redesignated provisions of subsec. (d)(1) as subsec. (b)(2) and substituted purchaser of such motor vehicle for purchaser of such motor vehicle for an adequate and full consideration in money or money’s worth and substituted actual notice or knowledge for notice or knowledge.

Subsec. (b)(3) to (10). Pub. L. 89-719 added pars. (3) to (10).

Subsecs. (c) to (e). Pub. L. 89-719 added subsecs. (c) to (e).

Subsec. (f)(1). Pub. L. 89-719 redesignated provisions of former subsec. (a)(1) to (3) as subsec. (f)(1).

Subsec. (f)(2). Pub. L. 89-719 added par. (2).

Subsec. (f)(3). Pub. L. 89-719 redesignated provisions of former subsec. (b) as subsec. (f)(3) and substituted provisions that the form and content of the notice be prescribed by the Secretary or his delegate for provisions limiting the effectiveness of the notice to situations in which the notice is in such form as would be valid if filed with the clerk of the United States district court when state or territory law fails to designate an office for the filing of notice.

Subsec. (g). Pub. L. 89-719 added subsec. (g).

Subsec. (h)(1), (2). Pub. L. 89-719 added pars. (1) and (2).

Subsec. (h)(3). Pub. L. 89-719 redesignated provisions of former subsec. (d)(2) as subsec. (h)(3).

Subsec. (h)(4). Pub. L. 89-719 redesignated provisions of former subsec. (c)(2) as subsec. (h)(4).

Subsec. (h)(5), (6). Pub. L. 89-719 added pars. (5), (6).

Subsec. (i)(1), (2). Pub. L. 89-719 added pars. (1), (2).

Subsec. (i)(3). Pub. L. 89-719 redesignated provisions of former subsec. (e) as subsec. (i)(3) and substituted “regulations” for “rules and relations”.

1964—Subsec. (a). Pub. L. 88-272, §236(c)(1), substituted “subsections (c) and (d)” for “subsection (c)”.

Subsecs. (d), (e). Pub. L. 88-272, §236(a), added subsec. (d) and redesignated former subsec. (d) as (e).

EFFECTIVE DATE OF 1998 AMENDMENT

Amendment by section 1102(d)(1)(A) of Pub. L. 105-206 effective July 22, 1998, see section 1102(f)(1) of Pub. L. 105-206, set out as a note under section 7803 of this title.

Pub. L. 105-206, title III, §3435(c), July 22, 1998, 112 Stat. 761, provided that: “The amendments made by this section [amending this section] shall take effect on the date of the enactment of this Act [July 22, 1998].”

EFFECTIVE DATE OF 1996 AMENDMENT

Section 501(d) of Pub. L. 104-168 provided that: “The amendments made by this section [amending this section and section 6343 of this title] shall take effect on the date of the enactment of this Act [July 30, 1996].”

EFFECTIVE DATE OF 1990 AMENDMENT

Section 11317(c) of Pub. L. 101-508 provided that: “The amendments made by this section [amending this section and section 6502 of this title] shall apply to—

“(1) taxes assessed after the date of the enactment of this Act [Nov. 5, 1990], and

“(2) taxes assessed on or before such date if the period specified in section 6502 of the Internal Revenue Code of 1986 (determined without regard to the amendments made by subsection (a) [amending section 6502 of this title]) for collection of such taxes has not expired as of such date.”

EFFECTIVE DATE OF 1988 AMENDMENT

Section 1015(s)(2) of Pub. L. 100-647 provided that: “The amendments made by this subsection [amending this section] shall take effect on the date of the enactment of this Act [Nov. 10, 1988].”

EFFECTIVE DATE OF 1986 AMENDMENT

Section 1569(b) of Pub. L. 99-514 provided that: “The amendment made by this section [amending this section] shall take effect on the date of the enactment of this Act [Oct. 22, 1986].”

EFFECTIVE DATE OF 1978 AMENDMENT

Section 702(q)(3) of Pub. L. 95-600, as amended by Pub. L. 99-514, §2, Oct. 22, 1986, 100 Stat. 2095, provided that:

“(A) The amendments made by this subsection [amending this section] shall apply with respect to liens, other security interests, and other interests in real property acquired after the date of the enactment of this Act [Nov. 6, 1978].

“(B) If, after the date of the enactment of this Act, there is a change in the application (or nonapplication) of section 6323(f)(4) of the Internal Revenue Code of 1986 [formerly I.R.C. 1954] (as amended by paragraph (1)) with respect to any filing jurisdiction, such change shall apply only with respect to liens, other security interests, and other interests in real property acquired after the date of such change.”

EFFECTIVE DATE OF 1976 AMENDMENT

Amendment by section 1202(h)(2) of Pub. L. 94-455 effective Jan. 1, 1977, see section 1202(i) of Pub. L. 94-455, set out as a note under section 6103 of this title.

Section 2008(d)(3) of Pub. L. 94-455 provided that: “The amendment made by subsection (c) [amending this section] shall take effect—

“(A) in the case of liens filed before the date of the enactment of this Act [Oct. 4, 1976], on the 270th day after such date of enactment, or

“(B) in the case of liens filed on or after the date of enactment of this Act [Oct. 4, 1976], on the 120th day after such date of enactment.”

EFFECTIVE DATE OF 1966 AMENDMENTS

Section 114(a)–(c) of title I of Pub. L. 89-719 provided that:

“(a) GENERAL RULE.—Except as otherwise provided, the amendments made by this title [enacting sections 3505, 7425, 7426, and 7810 of this title, amending this section, sections 545, 6322, 6324, 6325, 6331, 6332, 6334, 6335, 6337, 6338, 6339, 6342, 6343, 6502, 6503, 6532, 7402, 7403, 7421, 7424, 7505, 7506, and 7809 of this title, and section 270a of Title 40, Public Buildings, Property, and Works, redesignating former section 7425 as 7427 of this title, and enacting provisions set out as notes under this section and section 7424 of this title] shall apply after the date of enactment of this Act [Nov. 2, 1966], regardless of when a lien or a title of the United States arose or when the lien or interest of any other person was acquired.

“(b) EXCEPTIONS.—The amendments made by this title shall not apply in any case—

“(1) in which a lien or a title derived from enforcement of a lien held by the United States has been enforced by a civil action or suit which has become final by judgment, sale, or agreement before the date of enactment of this Act; or

“(2) in which such amendments would—

“(A) impair a priority enjoyed by any person (other than the United States) holding a lien or interest prior to the date of enactment of this Act;

“(B) operate to increase the liability of any such person; or

“(C) shorten the time for bringing suit with respect to transactions occurring before the date of enactment of this Act.

“(c) LIABILITY FOR WITHHELD TAXES.—

“(1) The amendments made by section 105(a) (relating to effect on third parties) [adding section 3505 of this title] shall apply only with respect to wages paid on or after January 1, 1967.

“(2) The amendments made by section 105(b) (relating to performance bonds of contractors for public buildings or works) [amending section 270a of Title 40] shall apply to contracts entered into pursuant to invitations for bids issued after June 30, 1967.”

Section 21 of Pub. L. 89-493 provided that: “This Act [amending this section] shall take effect on the first day of the first month which is at least ninety days after the date of approval of this Act [July 5, 1966].”

EFFECTIVE DATE OF 1964 AMENDMENT

Section 236(d) of Pub. L. 88-272 provided that: “The amendments made by this section [amending this section and section 6324 of this title] shall apply only with respect to purchases made after the date of the enactment of this Act [Feb. 26, 1964].”

CROSS REFERENCES

Action to enforce lien or to subject property to payment of tax, see section 7403 of this title.

Civil action to clear title to property, see section 7424 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 4101, 6320, 6324, 6324A, 6325, 6332 of this title; title 11 section 724; title 18 section 3613; title 30 section 934; title 42 section 9607.

§ 6324. Special liens for estate and gift taxes

(a) Liens for estate tax

Except as otherwise provided in subsection (c)—

(1) Upon gross estate

Unless the estate tax imposed by chapter 11 is sooner paid in full, or becomes unenforceable by reason of lapse of time, it shall be a lien upon the gross estate of the decedent for 10 years from the date of death, except that such part of the gross estate as is used for the payment of charges against the estate and expenses of its administration, allowed by any court having jurisdiction thereof, shall be divested of such lien.

(2) Liability of transferees and others

If the estate tax imposed by chapter 11 is not paid when due, then the spouse, transferee, trustee (except the trustee of an employees' trust which meets the requirements of section 401(a)), surviving tenant, person in possession of the property by reason of the exercise, nonexercise, or release of a power of appointment, or beneficiary, who receives, or has on the date of the decedent's death, property included in the gross estate under sections 2034 to 2042, inclusive, to the extent of the value, at the time of the decedent's death, of such property, shall be personally liable for such tax. Any part of such property transferred by (or transferred by a transferee of) such spouse, transferee, trustee, surviving tenant, person in possession, or beneficiary, to a purchaser or holder of a security interest shall be divested of the lien provided in paragraph (1) and a like lien shall then attach to all the property of such spouse, transferee, trustee, surviving tenant, person in possession, or beneficiary, or transferee of any such person, except any part transferred to a purchaser or a holder of a security interest.

(3) Continuance after discharge of fiduciary

The provisions of section 2204 (relating to discharge of fiduciary from personal liability) shall not operate as a release of any part of the gross estate from the lien for any deficiency that may thereafter be determined to be due, unless such part of the gross estate (or any interest therein) has been transferred to a purchaser or a holder of a security interest, in which case such part (or such interest) shall not be subject to a lien or to any claim or demand for any such deficiency, but the lien shall attach to the consideration received from such purchaser or holder of a security interest, by the heirs, legatees, devisees, or distributees.

(b) Lien for gift tax

Except as otherwise provided in subsection (c), unless the gift tax imposed by chapter 12 is sooner paid in full or becomes unenforceable by reason of lapse of time, such tax shall be a lien upon all gifts made during the period for which the return was filed, for 10 years from the date the gifts are made. If the tax is not paid when due, the donee of any gift shall be personally liable for such tax to the extent of the value of such gift. Any part of the property comprised in the gift transferred by the donee (or by a transferee of the donee) to a purchaser or holder of a security interest shall be divested of the lien imposed by this subsection and such lien, to the extent of the value of such gift, shall attach to all

the property (including after-acquired property) of the donee (or the transferee) except any part transferred to a purchaser or holder of a security interest.

(c) Exceptions

(1) The lien imposed by subsection (a) or (b) shall not be valid as against a mechanic's lienor and, subject to the conditions provided by section 6323(b) (relating to protection for certain interests even though notice filed), shall not be valid with respect to any lien or interest described in section 6323(b).

(2) If a lien imposed by subsection (a) or (b) is not valid as against a lien or security interest, the priority of such lien or security interest shall extend to any item described in section 6323(e) (relating to priority of interest and expenses) to the extent that, under local law, such item has the same priority as the lien or security interest to which it relates.

(Aug. 16, 1954, ch. 736, 68A Stat. 780; Pub. L. 88-272, title II, §236(b), (c)(2), Feb. 26, 1964, 78 Stat. 127, 128; Pub. L. 89-719, title I, §102, Nov. 2, 1966, 80 Stat. 1132; Pub. L. 91-614, title I, §§101(d)(2), 102(d)(7), Dec. 31, 1970, 84 Stat. 1837, 1842.)

AMENDMENTS

1970—Subsec. (a)(3). Pub. L. 91-614, §101(d)(2), substituted "fiduciary" for "executor" in heading and text.

Subsec. (b). Pub. L. 91-614, §102(d)(7), substituted "period for which the return was filed" for "calendar year".

1966—Subsec. (a)(1). Pub. L. 89-719 inserted ", or becomes unenforceable by reason of lapse of time," after "sooner paid in full" and substituted "10 years from the date of death" for "10 years upon the gross estate of the decedent".

Subsec. (a)(2). Pub. L. 89-719 substituted "person in possession, or beneficiary, to a purchaser or holder of a security interest" for "person in possession of property by reason of the exercise, nonexercise, or release of a power of appointment, or beneficiary, to a bona fide purchaser, mortgagee, or pledgee, for an adequate and full consideration in money and money's worth" and "except any part transferred to a purchaser or a holder of a security interest" for "except any part transferred to a bona fide purchaser, mortgagee, or pledgee for an adequate and full consideration in money or money's worth".

Subsec. (a)(3). Pub. L. 89-719 substituted "purchaser or a holder of a security interest" for "bona fide purchaser, mortgagee, or pledgee for an adequate and full consideration in money or money's worth" and "purchaser or holder of a security interest" for "purchaser, mortgagee, or pledgee".

Subsec. (b). Pub. L. 89-719 substituted reference to exception provided in subsec. (c) for reference to exceptions provided in subsecs. (c) and (d), inserted reference to tax becoming unenforceable by reason of lapse of time, and substituted "purchaser or holder of a security interest" for "bona-fide purchaser, mortgagee, or pledgee, for an adequate and full consideration in money or money's worth".

Subsec. (c). Pub. L. 89-719 redesignated as par. (1) provisions formerly constituting subsec. (c), substituted "valid as against a mechanic's lienor and, subject to the conditions provided by section 6323(b) (relating to protection for certain interests even though noticed filed), shall not be valid with respect to any lien or interest described in section 6323(b)" for "valid with respect to a security, as defined in section 6323(c)(2), as against any mortgagee, pledgee, or purchaser of any such security, for an adequate and full consideration in

money or money's worth, if at the time of such mortgage, pledge, or purchase such mortgagee, pledgee, or purchaser is without notice or knowledge of the existence of such lien", and added par. (2).

Subsec. (d). Pub. L. 89-719 struck out subsec. (d) dealing with exceptions in the case of motor vehicles. See subsec. (c) above and reference therein to section 6323(b).

1964—Subsecs. (a), (b). Pub. L. 88-272, §236(c)(2), inserted "and subsection (d) (relating to purchases of motor vehicles)".

Subsec. (d). Pub. L. 88-272, §236(b), added subsec. (d).

EFFECTIVE DATE OF 1970 AMENDMENT

Amendment by section 101(d)(2) of Pub. L. 91-614 applicable with respect to decedents dying after Dec. 31, 1970, see section 101(j) of Pub. L. 91-614, set out as a note under section 2032 of this title.

Amendment by section 102(d)(7) of Pub. L. 91-614 applicable with respect to gifts made after Dec. 31, 1970, see section 102(e) of Pub. L. 91-614, set out as a note under section 2501 of this title.

EFFECTIVE DATE OF 1966 AMENDMENT

Amendment by Pub. L. 89-719 applicable after Nov. 2, 1966, regardless of when title or lien of United States arose or when lien or interest of another person was acquired, with certain exceptions, see section 114(a)-(c) of Pub. L. 89-719, set out as a note under section 6323 of this title.

EFFECTIVE DATE OF 1964 AMENDMENT

Amendment by Pub. L. 88-272 applicable to purchases made after Feb. 26, 1964, see section 236(d) of Pub. L. 88-272, set out as a note under section 6323 of this title.

CROSS REFERENCES

Definition of transferee under subsection (a)(2) of this section, see section 6901 of this title.

Liability for payment of estate tax, see section 2002 of this title.

Period of limitation in case of liability of initial transferee, see section 6901 of this title.

Time for filing estate and gift tax returns, see section 6075 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 2056A, 6323, 6324A, 6325, 6901 of this title.

§ 6324A. Special lien for estate tax deferred under section 6166

(a) General rule

In the case of any estate with respect to which an election has been made under section 6166, if the executor makes an election under this section (at such time and in such manner as the Secretary shall by regulations prescribe) and files the agreement referred to in subsection (c), the deferred amount (plus any interest, additional amount, addition to tax, assessable penalty, and costs attributable to the deferred amount) shall be a lien in favor of the United States on the section 6166 lien property.

(b) Section 6166 lien property

(1) In general

For purposes of this section, the term "section 6166 lien property" means interests in real and other property to the extent such interests—

(A) can be expected to survive the deferral period, and

(B) are designated in the agreement referred to in subsection (c).

(2) Maximum value of required property

The maximum value of the property which the Secretary may require as section 6166 lien property with respect to any estate shall be a value which is not greater than the sum of—

- (A) the deferred amount, and
- (B) the required interest amount.

For purposes of the preceding sentence, the value of any property shall be determined as of the date prescribed by section 6151(a) for payment of the tax imposed by chapter 11 and shall be determined by taking into account any encumbrance such as a lien under section 6324B.

(3) Partial substitution of bond for lien

If the value required as section 6166 lien property pursuant to paragraph (2) exceeds the value of the interests in property covered by the agreement referred to in subsection (c), the Secretary may accept bond in an amount equal to such excess conditioned on the payment of the amount extended in accordance with the terms of such extension.

(c) Agreement

The agreement referred to in this subsection is a written agreement signed by each person in being who has an interest (whether or not in possession) in any property designated in such agreement—

(1) consenting to the creation of the lien under this section with respect to such property, and

(2) designating a responsible person who shall be the agent for the beneficiaries of the estate and for the persons who have consented to the creation of the lien in dealings with the Secretary on matters arising under section 6166 or this section.

(d) Special rules

(1) Requirement that lien be filed

The lien imposed by this section shall not be valid as against any purchaser, holder of a security interest, mechanic's lien, or judgment lien creditor until notice thereof which meets the requirements of section 6323(f) has been filed by the Secretary. Such notice shall not be required to be refiled.

(2) Period of lien

The lien imposed by this section shall arise at the time the executor is discharged from liability under section 2204 (or, if earlier, at the time notice is filed pursuant to paragraph (1)) and shall continue until the liability for the deferred amount is satisfied or becomes unenforceable by reason of lapse of time.

(3) Priorities

Even though notice of a lien imposed by this section has been filed as provided in paragraph (1), such lien shall not be valid—

(A) Real property tax and special assessment liens

To the extent provided in section 6323(b)(6).

(B) Real property subject to a mechanic's lien for repairs and improvement

In the case of any real property subject to a lien for repair or improvement, as against a mechanic's lienor.

(C) Real property construction or improvement financing agreement

As against any security interest set forth in paragraph (3) of section 6323(c) (whether such security interest came into existence before or after tax lien filing).

Subparagraphs (B) and (C) shall not apply to any security interest which came into existence after the date on which the Secretary filed notice (in a manner similar to notice filed under section 6323(f)) that payment of the deferred amount has been accelerated under section 6166(g).

(4) Lien to be in lieu of section 6324 lien

If there is a lien under this section on any property with respect to any estate, there shall not be any lien under section 6324 on such property with respect to the same estate.

(5) Additional lien property required in certain cases

If at any time the value of the property covered by the agreement is less than the unpaid portion of the deferred amount and the required interest amount, the Secretary may require the addition of property to the agreement (but he may not require under this paragraph that the value of the property covered by the agreement exceed such unpaid portion). If property having the required value is not added to the property covered by the agreement (or if other security equal to the required value is not furnished) within 90 days after notice and demand therefor by the Secretary, the failure to comply with the preceding sentence shall be treated as an act accelerating payment of the installments under section 6166(g).

(6) Lien to be in lieu of bond

The Secretary may not require under section 6165 the furnishing of any bond for the payment of any tax to which an agreement which meets the requirements of subsection (c) applies.

(e) Definitions

For purposes of this section—

(1) Deferred amount

The term “deferred amount” means the aggregate amount deferred under section 6166 (determined as of the date prescribed by section 6151(a) for payment of the tax imposed by chapter 11).

(2) Required interest amount

The term “required interest amount” means the aggregate amount of interest which will be payable over the first 4 years of the deferral period with respect to the deferred amount (determined as of the date prescribed by section 6151(a) for the payment of the tax imposed by chapter 11).

(3) Deferral period

The term “deferral period” means the period for which the payment of tax is deferred pursuant to the election under section 6166.

(4) Application of definitions in case of deficiencies

In the case of a deficiency, a separate deferred amount, required interest amount, and

deferral period shall be determined as of the due date of the first installment after the deficiency is prorated to installments under section 6166.

(Added Pub. L. 94-455, title XX, §2004(d)(1), Oct. 4, 1976, 90 Stat. 1868; amended Pub. L. 95-600, title VII, §702(e)(1), Nov. 6, 1978, 92 Stat. 2929; Pub. L. 97-34, title IV, §422(e)(6)(A)–(C), Aug. 13, 1981, 95 Stat. 316.)

AMENDMENTS

1981—Pub. L. 97-34, §422(e)(6)(C), struck out “or 6166A” after “section 6166” in section catchline.

Subsecs. (a), (c)(2). Pub. L. 97-34, §422(e)(6)(A), struck out “or 6166A” after “section 6166”.

Subsec. (d)(3), (5). Pub. L. 97-34, §422(e)(6)(B), struck out “or 6166A(h)” after “section 6166(g)”.

Subsec. (e)(1), (3), (4). Pub. L. 97-34, §422(e)(6)(A), struck out “or 6166A” after “section 6166”.

1978—Subsec. (b)(2)(B). Pub. L. 95-600, §702(e)(1)(B), substituted “required interest amount” for “aggregate interest amount”.

Subsec. (d)(5). Pub. L. 95-600, §702(e)(1)(C), substituted “required interest amount” for “aggregate interest amount”.

Subsec. (e)(2). Pub. L. 95-600, §702(e)(1)(A), substituted “Required interest amount” for “Aggregate interest amount” in heading and in text “required interest amount”, “over the first 4 years of the deferral period” and “for the payment” for “aggregate interest amount”, “over the deferral period” and “for payment”, respectively.

Subsec. (e)(4). Pub. L. 95-600, §702(e)(1)(D), substituted “required interest amount” for “aggregate interest amount”.

EFFECTIVE DATE OF 1981 AMENDMENT

Amendment by Pub. L. 97-34 applicable to estates of decedents dying after Dec. 31, 1981, see section 422(f)(1) of Pub. L. 97-34, set out as a note under section 6166 of this title.

EFFECTIVE DATE OF 1978 AMENDMENT

Section 702(e)(2) of Pub. L. 95-600 provided that: “The amendments made by this section [amending this section] shall apply to the estates of decedents dying after December 31, 1976.”

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 2204, 6324B, 6166 of this title.

§ 6324B. Special lien for additional estate tax attributable to farm, etc., valuation

(a) General rule

In the case of any interest in qualified real property (within the meaning of section 2032A(b)), an amount equal to the adjusted tax difference attributable to such interest (within the meaning of section 2032A(c)(2)(B)) shall be a lien in favor of the United States on the property in which such interest exists.

(b) Period of lien

The lien imposed by this section shall arise at the time an election is filed under section 2032A and shall continue with respect to any interest in the qualified real property—

(1) until the liability for tax under subsection (c) of section 2032A with respect to such interest has been satisfied or has become unenforceable by reason of lapse of time, or

(2) until it is established to the satisfaction of the Secretary that no further tax liability

may arise under section 2032A(c) with respect to such interest.

(c) Certain rules and definitions made applicable

(1) In general

The rule set forth in paragraphs (1), (3), and (4) of section 6324A(d) shall apply with respect to the lien imposed by this section as if it were a lien imposed by section 6324A.

(2) Qualified real property

For purposes of this section, the term “qualified real property” includes qualified replacement property (within the meaning of section 2032A(h)(3)(B)) and qualified exchange property (within the meaning of section 2032A(i)(3)).

(d) Substitution of security for lien

To the extent provided in regulations prescribed by the Secretary, the furnishing of security may be substituted for the lien imposed by this section.

(Added Pub. L. 94-455, title XX, § 2003(b), Oct. 4, 1976, 90 Stat. 1861; amended Pub. L. 95-600, title VII, § 702(r)(4), Nov. 6, 1978, 92 Stat. 2939; Pub. L. 96-222, title I, § 108(d), Apr. 1, 1980, 94 Stat. 228; Pub. L. 97-34, title IV, § 421(d)(2)(B), Aug. 13, 1981, 95 Stat. 309.)

AMENDMENTS

1981—Subsec. (c)(2). Pub. L. 97-34 defined “qualified real property” to include qualified exchange property (within the meaning of section 2032A(i)(3)).

1980—Subsec. (c). Pub. L. 96-222 designated existing provisions as par. (1), substituted “The rule” for “The rules”, and added par. (2).

1978—Subsec. (b). Pub. L. 95-600 substituted “qualified real property” for “qualified farm real property”.

EFFECTIVE DATE OF 1981 AMENDMENT

Amendment by Pub. L. 97-34 applicable with respect to exchanges after Dec. 31, 1981, see section 421(k)(3) of Pub. L. 97-34, set out as a note under section 2032A of this title.

EFFECTIVE DATE OF 1980 AMENDMENT

Amendment by Pub. L. 96-222 effective, except as otherwise provided, as if it had been included in the provisions of the Revenue Act of 1978, Pub. L. 95-600, to which such amendment relates, see section 201 of Pub. L. 96-222, set out as a note under section 32 of this title.

EFFECTIVE DATE OF 1978 AMENDMENT

Amendment by Pub. L. 95-600 applicable to estates of decedents dying after Dec. 31, 1976, see section 702(r)(5) of Pub. L. 95-600, set out as a note under section 2051 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 2032A, 2057, 6324A, 6325 of this title.

§ 6325. Release of lien or discharge of property

(a) Release of lien

Subject to such regulations as the Secretary may prescribe, the Secretary shall issue a certificate of release of any lien imposed with respect to any internal revenue tax not later than 30 days after the day on which—

(1) Liability satisfied or unenforceable

The Secretary finds that the liability for the amount assessed, together with all interest in

respect thereof, has been fully satisfied or has become legally unenforceable; or

(2) Bond accepted

There is furnished to the Secretary and accepted by him a bond that is conditioned upon the payment of the amount assessed, together with all interest in respect thereof, within the time prescribed by law (including any extension of such time), and that is in accordance with such requirements relating to terms, conditions, and form of the bond and sureties thereon, as may be specified by such regulations.

(b) Discharge of property

(1) Property double the amount of the liability

Subject to such regulations as the Secretary may prescribe, the Secretary may issue a certificate of discharge of any part of the property subject to any lien imposed under this chapter if the Secretary finds that the fair market value of that part of such property remaining subject to the lien is at least double the amount of the unsatisfied liability secured by such lien and the amount of all other liens upon such property which have priority over such lien.

(2) Part payment; interest of United States valueless

Subject to such regulations as the Secretary may prescribe, the Secretary may issue a certificate of discharge of any part of the property subject to the lien if—

(A) there is paid over to the Secretary in partial satisfaction of the liability secured by the lien an amount determined by the Secretary, which shall not be less than the value, as determined by the Secretary, of the interest of the United States in the part to be so discharged, or

(B) the Secretary determines at any time that the interest of the United States in the part to be so discharged has no value.

In determining the value of the interest of the United States in the part to be so discharged, the Secretary shall give consideration to the value of such part and to such liens thereon as have priority over the lien of the United States.

(3) Substitution of proceeds of sale

Subject to such regulations as the Secretary may prescribe, the Secretary may issue a certificate of discharge of any part of the property subject to the lien if such part of the property is sold and, pursuant to an agreement with the Secretary, the proceeds of such sale are to be held, as a fund subject to the liens and claims of the United States, in the same manner and with the same priority as such liens and claims had with respect to the discharged property.

(4) Right of substitution of value

(A) In general

At the request of the owner of any property subject to any lien imposed by this chapter, the Secretary shall issue a certificate of discharge of such property if such owner—

(i) deposits with the Secretary an amount of money equal to the value of the interest of the United States (as determined by the Secretary) in the property; or

(ii) furnishes a bond acceptable to the Secretary in a like amount.

(B) Refund of deposit with interest and release of bond

The Secretary shall refund the amount so deposited (and shall pay interest at the overpayment rate under section 6621), and shall release such bond, to the extent that the Secretary determines that—

(i) the unsatisfied liability giving rise to the lien can be satisfied from a source other than such property; or

(ii) the value of the interest of the United States in the property is less than the Secretary's prior determination of such value.

(C) Use of deposit, etc., if action to contest lien not filed

If no action is filed under section 7426(a)(4) within the period prescribed therefor, the Secretary shall, within 60 days after the expiration of such period—

(i) apply the amount deposited, or collect on such bond, to the extent necessary to satisfy the unsatisfied liability secured by the lien; and

(ii) refund (with interest as described in subparagraph (B)) any portion of the amount deposited which is not used to satisfy such liability.

(D) Exception

Subparagraph (A) shall not apply if the owner of the property is the person whose unsatisfied liability gave rise to the lien.

(c) Estate or gift tax

Subject to such regulations as the Secretary may prescribe, the Secretary may issue a certificate of discharge of any or all of the property subject to any lien imposed by section 6324 if the Secretary finds that the liability secured by such lien has been fully satisfied or provided for.

(d) Subordination of lien

Subject to such regulations as the Secretary may prescribe, the Secretary may issue a certificate of subordination of any lien imposed by this chapter upon any part of the property subject to such lien if—

(1) there is paid over to the Secretary an amount equal to the amount of the lien or interest to which the certificate subordinates the lien of the United States,

(2) the Secretary believes that the amount realizable by the United States from the property to which the certificate relates, or from any other property subject to the lien, will ultimately be increased by reason of the issuance of such certificate and that the ultimate collection of the tax liability will be facilitated by such subordination, or

(3) in the case of any lien imposed by section 6324B, if the Secretary determines that the United States will be adequately secured after such subordination.

(e) Nonattachment of lien

If the Secretary determines that, because of confusion of names or otherwise, any person (other than the person against whom the tax was assessed) is or may be injured by the appearance that a notice of lien filed under section 6323 refers to such person, the Secretary may issue a certificate that the lien does not attach to the property of such person.

(f) Effect of certificate

(1) Conclusiveness

Except as provided in paragraphs (2) and (3), if a certificate is issued pursuant to this section by the Secretary and is filed in the same office as the notice of lien to which it relates (if such notice of lien has been filed) such certificate shall have the following effect:

(A) in the case of a certificate of release, such certificate shall be conclusive that the lien referred to in such certificate is extinguished;

(B) in the case of a certificate of discharge, such certificate shall be conclusive that the property covered by such certificate is discharged from the lien;

(C) in the case of a certificate of subordination, such certificate shall be conclusive that the lien or interest to which the lien of the United States is subordinated is superior to the lien of the United States; and

(D) in the case of a certificate of nonattachment, such certificate shall be conclusive that the lien of the United States does not attach to the property of the person referred to in such certificate.

(2) Revocation of certificate of release or nonattachment

If the Secretary determines that a certificate of release or nonattachment of a lien imposed by section 6321 was issued erroneously or improvidently, or if a certificate of release of such lien was issued pursuant to a collateral agreement entered into in connection with a compromise under section 7122 which has been breached, and if the period of limitation on collection after assessment has not expired, the Secretary may revoke such certificate and reinstate the lien—

(A) by mailing notice of such revocation to the person against whom the tax was assessed at his last known address, and

(B) by filing notice of such revocation in the same office in which the notice of lien to which it relates was filed (if such notice of lien had been filed).

Such reinstated lien (i) shall be effective on the date notice of revocation is mailed to the taxpayer in accordance with the provisions of subparagraph (A), but not earlier than the date on which any required filing of notice of revocation is filed in accordance with the provisions of subparagraph (B), and (ii) shall have the same force and effect (as of such date), until the expiration of the period of limitation on collection after assessment, as a lien imposed by section 6321 (relating to lien for taxes).

(3) Certificates void under certain conditions

Notwithstanding any other provision of this subtitle, any lien imposed by this chapter

shall attach to any property with respect to which a certificate of discharge has been issued if the person liable for the tax reacquires such property after such certificate has been issued.

(g) Filing of certificates and notices

If a certificate or notice issued pursuant to this section may not be filed in the office designated by State law in which the notice of lien imposed by section 6321 is filed, such certificate or notice shall be effective if filed in the office of the clerk of the United States district court for the judicial district in which such office is situated.

(h) Cross reference

For provisions relating to bonds, see chapter 73 (sec. 7101 and following).

(Aug. 16, 1954, ch. 736, 68A Stat. 783; Pub. L. 85-866, title I, § 77, Nov. 2, 1966, 72 Stat. 1662; Pub. L. 89-719, title I, § 103(a), Nov. 2, 1966, 80 Stat. 1133; Pub. L. 94-455, title XIX, § 1906(b)(13)(A), Oct. 4, 1976, 90 Stat. 1834; Pub. L. 95-600, title V, § 513(a), Nov. 6, 1978, 92 Stat. 2883; Pub. L. 97-248, title III, § 348(a), Sept. 3, 1982, 96 Stat. 638; Pub. L. 105-206, title III, § 3106(a), July 22, 1998, 112 Stat. 732.)

AMENDMENTS

1998—Subsec. (b)(4). Pub. L. 105-206 added par. (4).

1982—Subsec. (a). Pub. L. 97-248 in introductory provisions substituted “shall issue” for “may issue” and “not later than 30 days after the day on which” for “if”.

1978—Subsec. (d)(3). Pub. L. 95-600 added par. (3).

1976—Pub. L. 94-455 struck out “or his delegate” after “Secretary” wherever appearing.

1966—Subsec. (b)(3). Pub. L. 89-719 added par. (3).

Subsecs. (d), (e). Pub. L. 89-719 added subsecs. (d) and (e). Former subsecs. (d) and (e) redesignated, with amendments, as subsecs. (f)(1) and (h), respectively.

Subsec. (f). Pub. L. 89-719 redesignated as par. (1) provisions formerly constituting subsec. (d), inserted reference to exceptions provided in pars. (2) and (3) and reference to the filing of the certificate in the same office as the notice of lien to which it refers and expanded the types of certificates to include separate certificates of release, discharge, subordination, and non-attachment, and added pars. (2) and (3).

Subsec. (g). Pub. L. 89-719 added subsec. (g).

Subsec. (h). Pub. L. 89-719 redesignated as subsec. (h) provisions formerly constituting subsec. (e) and struck out cross references for single bonds, suits to enforce liens, and suits to clear title to realty.

1958—Subsec. (a)(1). Pub. L. 85-866, § 77(1), substituted “or” for “,” after “satisfied” and struck out “, or, in the case of the estate tax imposed by chapter 11 or the gift tax imposed by chapter 12, has been fully satisfied or provided for” after “unenforceable”.

Subsec. (c). Pub. L. 85-866, § 77(2), added subsec. (c) and redesignated former subsec. (c) as (d).

Subsec. (d). Pub. L. 85-866, § 77(2), (3), redesignated former subsec. (c) as (d) and in heading and text struck out “partial” before “discharge”. Former subsec. (d) redesignated (e).

Subsec. (e). Pub. L. 85-866, § 77(2), redesignated former subsec. (d) as (e).

EFFECTIVE DATE OF 1998 AMENDMENT

Pub. L. 105-206, title III, § 3106(c), July 22, 1998, 112 Stat. 734, provided that: “The amendments made by this section [amending this section and sections 6503 and 7426 of this title] shall take effect on the date of the enactment of this Act [July 22, 1998].”

EFFECTIVE DATE OF 1982 AMENDMENT

Section 348(b) of Pub. L. 97-248 provided that: “The amendment made by subsection (a) [amending this section] shall apply with respect to liens—

“(1) which are filed after December 31, 1982,

“(2) which are satisfied after December 31, 1982, or

“(3) with respect to which the taxpayer after December 31, 1982, requests the Secretary of the Treasury or his delegate to issue a certificate of release on the grounds that the liability was satisfied or legally unenforceable.”

EFFECTIVE DATE OF 1978 AMENDMENT

Section 513(b) of Pub. L. 95-600 provided that: “The amendments made by subsection (a) [amending this section] shall apply with respect to the estates of decedents dying after December 31, 1976.”

EFFECTIVE DATE OF 1966 AMENDMENT

Amendment by Pub. L. 89-719 applicable after Nov. 2, 1966, regardless of when title or lien of United States arose or when lien or interest of another person was acquired, with certain exceptions, see section 114(a)-(c) of Pub. L. 89-719, set out as a note under section 6323 of this title.

EFFECTIVE DATE OF 1958 AMENDMENT

Amendment by Pub. L. 85-866 effective Aug. 17, 1954, see section 1(c)(2) of Pub. L. 85-866, set out as a note under section 165 of this title.

CROSS REFERENCES

Authority to release levy, see section 6343 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 6503, 7103, 7426, 7432 of this title; title 28 section 3201.

§ 6326. Administrative appeal of liens

(a) In general

In such form and at such time as the Secretary shall prescribe by regulations, any person shall be allowed to appeal to the Secretary after the filing of a notice of a lien under this subchapter on the property or the rights to property of such person for a release of such lien alleging an error in the filing of the notice of such lien.

(b) Certificate of release

If the Secretary determines that the filing of the notice of any lien was erroneous, the Secretary shall expeditiously (and, to the extent practicable, within 14 days after such determination) issue a certificate of release of such lien and shall include in such certificate a statement that such filing was erroneous.

(Added Pub. L. 100-647, title VI, § 6238(a), Nov. 10, 1988, 102 Stat. 3743.)

PRIOR PROVISIONS

A prior section 6326 was renumbered 6327 of this title.

EFFECTIVE DATE

Section 6238(d) of Pub. L. 100-647 provided that: “The amendments made by this section [enacting this section] shall take effect on the date which is 60 days after the date regulations are issued under subsection (b) [set out below].”

REGULATIONS

Section 6238(b) of Pub. L. 100-647 required Secretary of the Treasury or Secretary's delegate to prescribe

regulations necessary to implement administrative appeal provided for in amendment made by subsection (a) [enacting this section] within 180 days after Nov. 10, 1988.

§ 6327. Cross references

(1) For lien in case of tax on distilled spirits, see section 5004.

(2) For exclusion of tax liability from discharge in cases under title 11 of the United States Code, see section 523 of such title 11.

(3) For recognition of tax liens in cases under title 11 of the United States Code, see sections 545 and 724 of such title 11.

(4) For collection of taxes in connection with plans for individuals with regular income in cases under title 11 of the United States Code, see section 1328 of such title 11.

(5) For provisions permitting the United States to be made party defendant in a proceeding in a State court for the foreclosure of a lien upon real estate where the United States may have a claim upon the premises involved, see section 2410 of Title 28 of the United States Code.

(6) For priority of lien of the United States in case of insolvency, see section 3713(a) of title 31, United States Code.

(Aug. 16, 1954, ch. 736, 68A Stat. 782, § 6326; Pub. L. 94-455, title XIX, § 1906(a)(20), Oct. 4, 1976, 90 Stat. 1825; Pub. L. 96-589, § 6(i)(10), Dec. 24, 1980, 94 Stat. 3411; Pub. L. 97-258, § 3(f)(7), Sept. 13, 1982, 96 Stat. 1064; renumbered § 6327, Pub. L. 100-647, title VI, § 6238(a), Nov. 10, 1988, 102 Stat. 3743.)

AMENDMENTS

1982—Par. (6). Pub. L. 97-258 substituted “section 3713(a) of title 31, United States Code” for “R.S. 3466 (31 U.S.C. 191)”.

1980—Par. (2). Pub. L. 96-589, § 6(i)(10)(A), substituted “cases under title 11 of the United States Code, see section 523 of such title 11” for “bankruptcy, see section 17 of the Bankruptcy Act, as amended (11 U.S.C. 35)”.

Par. (3). Pub. L. 96-589, § 6(i)(10)(A), redesignated par. (4) as (3) and substituted “cases under title 11 of the United States Code, see sections 545 and 724 of such title 11” for “proceedings under the Bankruptcy Act, see section 67(b) and (c) of that act, as amended (11 U.S.C. 107)”. Former par. (3), which provided cross reference to section 93 of title 11 for limit on amount allowed in bankruptcy proceedings on debts owing to the United States, was struck out.

Par. (4). Pub. L. 96-589, § 6(i)(10)(A), redesignated par. (5) as (4) and substituted “plans for individuals with regular income in cases under title 11 of the United States Code, see section 1328 of such title 11” for “wage earners’ plans in bankruptcy courts, see section 680 of the Bankruptcy Act, as added by the act of June 22, 1938 (11 U.S.C. 1080)”. Former par. (4) redesignated (3).

Pars. (5) to (7). Pub. L. 96-589, § 6(i)(10)(A), (B), redesignated pars. (6) and (7) as (5) and (6), respectively. Former par. (5) redesignated (4).

1976—Pars. (2) to (5). Pub. L. 94-455 struck out parenthetical references to “52 Stat. 851;”, “52 Stat. 867;”, “52 Stat. 867-877;” and “52 Stat. 938;” preceding parenthetical references to sections of title 11.

EFFECTIVE DATE OF 1980 AMENDMENT

Amendment by Pub. L. 96-589 effective Oct. 1, 1979, but not applicable to proceedings under Title 11, Bankruptcy, commenced before Oct. 1, 1979, see section 7(e) of Pub. L. 96-589, set out as a note under section 108 of this title.

Subchapter D—Seizure of Property for Collection of Taxes

Part

I. Due process for collections.

Part

II. Levy.

AMENDMENTS

1998—Pub. L. 105-206, title III, § 3401(b), July 22, 1998, 112 Stat. 747, added part analysis.

SUBCHAPTER REFERRED TO IN OTHER SECTIONS

This subchapter is referred to in section 7803 of this title; title 38 sections 1970, 5301.

PART I—DUE PROCESS FOR COLLECTIONS

Sec.

6330. Notice and opportunity for hearing before levy.

AMENDMENTS

1998—Pub. L. 105-206, title III, § 3401(b), July 22, 1998, 112 Stat. 747, added part heading and analysis consisting of item 6330.

§ 6330. Notice and opportunity for hearing before levy

(a) Requirement of notice before levy

(1) In general

No levy may be made on any property or right to property of any person unless the Secretary has notified such person in writing of their right to a hearing under this section before such levy is made. Such notice shall be required only once for the taxable period to which the unpaid tax specified in paragraph (3)(A) relates.

(2) Time and method for notice

The notice required under paragraph (1) shall be—

(A) given in person;

(B) left at the dwelling or usual place of business of such person; or

(C) sent by certified or registered mail, return receipt requested, to such person’s last known address;

not less than 30 days before the day of the first levy with respect to the amount of the unpaid tax for the taxable period.

(3) Information included with notice

The notice required under paragraph (1) shall include in simple and nontechnical terms—

(A) the amount of unpaid tax;

(B) the right of the person to request a hearing during the 30-day period under paragraph (2); and

(C) the proposed action by the Secretary and the rights of the person with respect to such action, including a brief statement which sets forth—

(i) the provisions of this title relating to levy and sale of property;

(ii) the procedures applicable to the levy and sale of property under this title;

(iii) the administrative appeals available to the taxpayer with respect to such levy and sale and the procedures relating to such appeals;

(iv) the alternatives available to taxpayers which could prevent levy on property (including installment agreements under section 6159); and

(v) the provisions of this title and procedures relating to redemption of property and release of liens on property.

(b) Right to fair hearing

(1) In general

If the person requests a hearing under subsection (a)(3)(B), such hearing shall be held by the Internal Revenue Service Office of Appeals.

(2) One hearing per period

A person shall be entitled to only one hearing under this section with respect to the taxable period to which the unpaid tax specified in subsection (a)(3)(A) relates.

(3) Impartial officer

The hearing under this subsection shall be conducted by an officer or employee who has had no prior involvement with respect to the unpaid tax specified in subsection (a)(3)(A) before the first hearing under this section or section 6320. A taxpayer may waive the requirement of this paragraph.

(c) Matters considered at hearing

In the case of any hearing conducted under this section—

(1) Requirement of investigation

The appeals officer shall at the hearing obtain verification from the Secretary that the requirements of any applicable law or administrative procedure have been met.

(2) Issues at hearing

(A) In general

The person may raise at the hearing any relevant issue relating to the unpaid tax or the proposed levy, including—

- (i) appropriate spousal defenses;
- (ii) challenges to the appropriateness of collection actions; and
- (iii) offers of collection alternatives, which may include the posting of a bond, the substitution of other assets, an installment agreement, or an offer-in-compromise.

(B) Underlying liability

The person may also raise at the hearing challenges to the existence or amount of the underlying tax liability for any tax period if the person did not receive any statutory notice of deficiency for such tax liability or did not otherwise have an opportunity to dispute such tax liability.

(3) Basis for the determination

The determination by an appeals officer under this subsection shall take into consideration—

- (A) the verification presented under paragraph (1);
- (B) the issues raised under paragraph (2); and
- (C) whether any proposed collection action balances the need for the efficient collection of taxes with the legitimate concern of the person that any collection action be no more intrusive than necessary.

(4) Certain issues precluded

An issue may not be raised at the hearing if—

(A) the issue was raised and considered at a previous hearing under section 6320 or in any other previous administrative or judicial proceeding; and

(B) the person seeking to raise the issue participated meaningfully in such hearing or proceeding.

This paragraph shall not apply to any issue with respect to which subsection (d)(2)(B) applies.

(d) Proceeding after hearing

(1) Judicial review of determination

The person may, within 30 days of a determination under this section, appeal such determination—

(A) to the Tax Court (and the Tax Court shall have jurisdiction to hear such matter); or

(B) if the Tax Court does not have jurisdiction of the underlying tax liability, to a district court of the United States.

If a court determines that the appeal was to an incorrect court, a person shall have 30 days after the court determination to file such appeal with the correct court.

(2) Jurisdiction retained at IRS Office of Appeals

The Internal Revenue Service Office of Appeals shall retain jurisdiction with respect to any determination made under this section, including subsequent hearings requested by the person who requested the original hearing on issues regarding—

- (A) collection actions taken or proposed with respect to such determination; and
- (B) after the person has exhausted all administrative remedies, a change in circumstances with respect to such person which affects such determination.

(e) Suspension of collections and statute of limitations

(1) In general

Except as provided in paragraph (2), if a hearing is requested under subsection (a)(3)(B), the levy actions which are the subject of the requested hearing and the running of any period of limitations under section 6502 (relating to collection after assessment), section 6531 (relating to criminal prosecutions), or section 6532 (relating to other suits) shall be suspended for the period during which such hearing, and appeals therein, are pending. In no event shall any such period expire before the 90th day after the day on which there is a final determination in such hearing.

(2) Levy upon appeal

Paragraph (1) shall not apply to a levy action while an appeal is pending if the underlying tax liability is not at issue in the appeal and the court determines that the Secretary has shown good cause not to suspend the levy.

(f) Jeopardy and State refund collection

If—

(1) the Secretary has made a finding under the last sentence of section 6331(a) that the collection of tax is in jeopardy; or

(2) the Secretary has served a levy on a State to collect a Federal tax liability from a State tax refund,

this section shall not apply, except that the taxpayer shall be given the opportunity for the hearing described in this section within a reasonable period of time after the levy.

(Added Pub. L. 105-206, title III, § 3401(b), July 22, 1998, 112 Stat. 747.)

EFFECTIVE DATE

Section applicable to collection actions initiated after the date which is 180 days after July 22, 1998, see section 3401(d) of Pub. L. 105-206, set out as a note under section 6320 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 6320, 7443A, 7803 of this title.

PART II—LEVY

Sec.	
6331.	Levy and distraint.
6332.	Surrender of property subject to levy.
6333.	Production of books.
6334.	Property exempt from levy.
6335.	Sale of seized property.
6336.	Sale of perishable goods.
6337.	Redemption of property.
6338.	Certificate of sale; deed of real property.
6339.	Legal effect of certificate of sale of personal property and deed of real property.
6340.	Records of sale.
6341.	Expense of levy and sale.
6342.	Application of proceeds of levy.
6343.	Authority to release levy and return property.
6344.	Cross references.

AMENDMENTS

1998—Pub. L. 105-206, title III, § 3401(b), July 22, 1998, 112 Stat. 749, added part heading.

1966—Pub. L. 89-719, title I, § 104(j), Nov. 2, 1966, 80 Stat. 1138, inserted “and return property” in item 6343.

§ 6331. Levy and distraint

(a) Authority of Secretary

If any person liable to pay any tax neglects or refuses to pay the same within 10 days after notice and demand, it shall be lawful for the Secretary to collect such tax (and such further sum as shall be sufficient to cover the expenses of the levy) by levy upon all property and rights to property (except such property as is exempt under section 6334) belonging to such person or on which there is a lien provided in this chapter for the payment of such tax. Levy may be made upon the accrued salary or wages of any officer, employee, or elected official, of the United States, the District of Columbia, or any agency or instrumentality of the United States or the District of Columbia, by serving a notice of levy on the employer (as defined in section 3401(d)) of such officer, employee, or elected official. If the Secretary makes a finding that the collection of such tax is in jeopardy, notice and demand for immediate payment of such tax may be made by the Secretary and, upon failure or refusal to pay such tax, collection thereof by levy shall be lawful without regard to the 10-day period provided in this section.

(b) Seizure and sale of property

The term “levy” as used in this title includes the power of distraint and seizure by any means.

Except as otherwise provided in subsection (e), a levy shall extend only to property possessed and obligations existing at the time thereof. In any case in which the Secretary may levy upon property or rights to property, he may seize and sell such property or rights to property (whether real or personal, tangible or intangible).

(c) Successive seizures

Whenever any property or right to property upon which levy has been made by virtue of subsection (a) is not sufficient to satisfy the claim of the United States for which levy is made, the Secretary may, thereafter, and as often as may be necessary, proceed to levy in like manner upon any other property liable to levy of the person against whom such claim exists, until the amount due from him, together with all expenses, is fully paid.

(d) Requirement of notice before levy

(1) In general

Levy may be made under subsection (a) upon the salary or wages or other property of any person with respect to any unpaid tax only after the Secretary has notified such person in writing of his intention to make such levy.

(2) 30-day requirement

The notice required under paragraph (1) shall be—

(A) given in person,

(B) left at the dwelling or usual place of business of such person, or

(C) sent by certified or registered mail to such persons's last known address,

no less than 30 days before the day of the levy.

(3) Jeopardy

Paragraph (1) shall not apply to a levy if the Secretary has made a finding under the last sentence of subsection (a) that the collection of tax is in jeopardy.

(4) Information included with notice

The notice required under paragraph (1) shall include a brief statement which sets forth in simple and nontechnical terms—

(A) the provisions of this title relating to levy and sale of property,

(B) the procedures applicable to the levy and sale of property under this title,

(C) the administrative appeals available to the taxpayer with respect to such levy and sale and the procedures relating to such appeals,

(D) the alternatives available to taxpayers which could prevent levy on the property (including installment agreements under section 6159),

(E) the provisions of this title relating to redemption of property and release of liens on property, and

(F) the procedures applicable to the redemption of property and the release of a lien on property under this title.

(e) Continuing levy on salary and wages

The effect of a levy on salary or wages payable to or received by a taxpayer shall be continuous from the date such levy is first made until such levy is released under section 6343.

(f) Uneconomical levy

No levy may be made on any property if the amount of the expenses which the Secretary estimates (at the time of levy) would be incurred by the Secretary with respect to the levy and sale of such property exceeds the fair market value of such property at the time of levy.

(g) Levy on appearance date of summons**(1) In general**

No levy may be made on the property of any person on any day on which such person (or officer or employee of such person) is required to appear in response to a summons issued by the Secretary for the purpose of collecting any underpayment of tax.

(2) No application in case of jeopardy

This subsection shall not apply if the Secretary finds that the collection of tax is in jeopardy.

(h) Continuing levy on certain payments**(1) In general**

If the Secretary approves a levy under this subsection, the effect of such levy on specified payments to or received by a taxpayer shall be continuous from the date such levy is first made until such levy is released. Notwithstanding section 6334, such continuous levy shall attach to up to 15 percent of any specified payment due to the taxpayer.

(2) Specified payment

For the purposes of paragraph (1), the term “specified payment” means—

- (A) any Federal payment other than a payment for which eligibility is based on the income or assets (or both) of a payee,
- (B) any payment described in paragraph (4), (7), (9), or (11) of section 6334(a), and
- (C) any annuity or pension payment under the Railroad Retirement Act or benefit under the Railroad Unemployment Insurance Act.

(i) No levy during pendency of proceedings for refund of divisible tax**(1) In general**

No levy may be made under subsection (a) on the property or rights to property of any person with respect to any unpaid divisible tax during the pendency of any proceeding brought by such person in a proper Federal trial court for the recovery of any portion of such divisible tax which was paid by such person if—

- (A) the decision in such proceeding would be res judicata with respect to such unpaid tax; or
- (B) such person would be collaterally estopped from contesting such unpaid tax by reason of such proceeding.

(2) Divisible tax

For purposes of paragraph (1), the term “divisible tax” means—

- (A) any tax imposed by subtitle C; and
- (B) the penalty imposed by section 6672 with respect to any such tax.

(3) Exceptions**(A) Certain unpaid taxes**

This subsection shall not apply with respect to any unpaid tax if—

- (i) the taxpayer files a written notice with the Secretary which waives the restriction imposed by this subsection on levy with respect to such tax; or
- (ii) the Secretary finds that the collection of such tax is in jeopardy.

(B) Certain levies

This subsection shall not apply to—

- (i) any levy to carry out an offset under section 6402; and
- (ii) any levy which was first made before the date that the applicable proceeding under this subsection commenced.

(4) Limitation on collection activity; authority to enjoin collection**(A) Limitation on collection**

No proceeding in court for the collection of any unpaid tax to which paragraph (1) applies shall be begun by the Secretary during the pendency of a proceeding under such paragraph. This subparagraph shall not apply to—

- (i) any counterclaim in a proceeding under such paragraph; or
- (ii) any proceeding relating to a proceeding under such paragraph.

(B) Authority to enjoin

Notwithstanding section 7421(a), a levy or collection proceeding prohibited by this subsection may be enjoined (during the period such prohibition is in force) by the court in which the proceeding under paragraph (1) is brought.

(5) Suspension of statute of limitations on collection

The period of limitations under section 6502 shall be suspended for the period during which the Secretary is prohibited under this subsection from making a levy.

(6) Pendency of proceeding

For purposes of this subsection, a proceeding is pending beginning on the date such proceeding commences and ending on the date that a final order or judgment from which an appeal may be taken is entered in such proceeding.

(j) No levy before investigation of status of property**(1) In general**

For purposes of applying the provisions of this subchapter, no levy may be made on any property or right to property which is to be sold under section 6335 until a thorough investigation of the status of such property has been completed.

(2) Elements in investigation

For purposes of paragraph (1), an investigation of the status of any property shall include—

- (A) a verification of the taxpayer's liability;
- (B) the completion of an analysis under subsection (f);
- (C) the determination that the equity in such property is sufficient to yield net proceeds from the sale of such property to apply to such liability; and

(D) a thorough consideration of alternative collection methods.

(k) No levy while certain offers pending or installment agreement pending or in effect

(1) Offer-in-compromise pending

No levy may be made under subsection (a) on the property or rights to property of any person with respect to any unpaid tax—

(A) during the period that an offer-in-compromise by such person under section 7122 of such unpaid tax is pending with the Secretary; and

(B) if such offer is rejected by the Secretary, during the 30 days thereafter (and, if an appeal of such rejection is filed within such 30 days, during the period that such appeal is pending).

For purposes of subparagraph (A), an offer is pending beginning on the date the Secretary accepts such offer for processing.

(2) Installment agreements

No levy may be made under subsection (a) on the property or rights to property of any person with respect to any unpaid tax—

(A) during the period that an offer by such person for an installment agreement under section 6159 for payment of such unpaid tax is pending with the Secretary;

(B) if such offer is rejected by the Secretary, during the 30 days thereafter (and, if an appeal of such rejection is filed within such 30 days, during the period that such appeal is pending);

(C) during the period that such an installment agreement for payment of such unpaid tax is in effect; and

(D) if such agreement is terminated by the Secretary, during the 30 days thereafter (and, if an appeal of such termination is filed within such 30 days, during the period that such appeal is pending).

(3) Certain rules to apply

Rules similar to the rules of paragraphs (3), (4), and (5) of subsection (i) shall apply for purposes of this subsection.

(l) Cross references

(1) For provisions relating to jeopardy, see subchapter A of chapter 70.

(2) For proceedings applicable to sale of seized property see section 6335.

(3) For release and notice of release of levy, see section 6343.

(Aug. 16, 1954, ch. 736, 68A Stat. 783; Pub. L. 89-719, title I, §104(a), Nov. 2, 1966, 80 Stat. 1135; Pub. L. 92-178, title II, §211(a), Dec. 10, 1971, 85 Stat. 520; Pub. L. 94-455, title XII, §1209(d)(1), (2), (4), title XIX, §1906(b)(13)(A), Oct. 4, 1976, 90 Stat. 1710, 1711, 1834; Pub. L. 97-248, title III, §349(a), Sept. 3, 1982, 96 Stat. 639; Pub. L. 98-369, div. A, title VII, §714(o), July 18, 1984, 98 Stat. 964; Pub. L. 100-647, title VI, §6236(a), (b), (d), Nov. 10, 1988, 102 Stat. 3737, 3739; Pub. L. 105-34, title X, §1024(a), Aug. 5, 1997, 111 Stat. 923; Pub. L. 105-206, title III, §§3433(a), 3444(a), 3462(b), title VI, §6010(f), July 22, 1998, 112 Stat. 759, 762, 765, 814.)

REFERENCES IN TEXT

The Railroad Retirement Act, referred to in subsec. (h)(2)(C), is act Aug. 29, 1935, ch. 812, as amended gener-

ally by Pub. L. 93-445, title I, §101, Oct. 16, 1974, 88 Stat. 1305, known as the Railroad Retirement Act of 1974, which is classified generally to subchapter IV (§231 et seq.) of chapter 9 of Title 45, Railroads. For further details and complete classification of this Act to the Code, see Codification note set out preceding section 231 of Title 45, section 231t of Title 45, and Tables.

The Railroad Unemployment Insurance Act, referred to in subsec. (h)(2)(C), is act June 25, 1938, ch. 680, 52 Stat. 1094, as amended, which is classified principally to chapter 11 (§351 et seq.) of Title 45, Railroads. For complete classification of this Act to the Code, see section 367 of Title 45 and Tables.

AMENDMENTS

1998—Subsec. (h)(1). Pub. L. 105-206, §6010(f), substituted “If the Secretary approves a levy under this subsection, the effect of such levy” for “The effect of a levy”.

Subsec. (i). Pub. L. 105-206, §3433(a), added subsec. (i). Former subsec. (i) redesignated (j).

Subsec. (j). Pub. L. 105-206, §3444(a), added subsec. (j). Former subsec. (j) redesignated (k).

Pub. L. 105-206, §3433(a), redesignated subsec. (i) as (j).

Subsec. (k). Pub. L. 105-206, §3462(b), added subsec. (k). Former subsec. (k) redesignated (l).

Pub. L. 105-206, §3444(a), redesignated subsec. (j) as (k).

Subsec. (l). Pub. L. 105-206, §3462(b), redesignated subsec. (k) as (l).

1997—Subsecs. (h), (i). Pub. L. 105-34 added subsec. (h) and redesignated former subsec. (h) as (i).

1988—Subsec. (d)(2). Pub. L. 100-647, §6236(a)(1), (2), substituted “30-day” for “10-day” in heading and “30 days” for “10 days” in text.

Subsec. (d)(4). Pub. L. 100-647, §6236(a)(3), added par. (4).

Subsec. (e). Pub. L. 100-647, §6236(b)(1), amended subsec. (e) generally. Prior to amendment, subsec. (e) consisted of two pars. relating to effect of continuing levy on salary and wages and release and notice of release of levy.

Subsecs. (f), (g). Pub. L. 100-647, §6236(d), added subsecs. (f) and (g). Former subsec. (f) redesignated (h).

Subsec. (h). Pub. L. 100-647, §6236(b)(2), (d), redesignated subsec. (f) as (h) and added par. (3).

1984—Subsec. (b). Pub. L. 98-369 substituted “subsection (e)” for “subsection (d)(3)”.

1982—Subsec. (d). Pub. L. 97-248 inserted authority to levy upon property other than salary or wages, substituted “person” for “individual” wherever appearing, designated second sentence of former par. (1) as par. (2) and in par. (2)(C) as so designated substituted “certified or registered mail” for “mail”, and redesignated former par. (2) as (3) and former par. (3) as subsec. (e).

Subsec. (e). Pub. L. 97-248 redesignated former subsec. (d)(3) as (e). Former subsec. (e) redesignated (f).

Subsec. (f). Pub. L. 97-248 redesignated former subsec. (e) as (f).

1976—Subsec. (a). Pub. L. 94-455, §1906(b)(13)(A), struck out “or his delegate” after “Secretary” wherever appearing.

Subsec. (b). Pub. L. 94-455, §§1209(d)(2), 1906(b)(13)(A), substituted in second sentence “Except as otherwise provided in subsection (d)(3), a levy” for “A levy” and struck out “or his delegate” after “Secretary”.

Subsec. (c). Pub. L. 94-455, §1906(b)(13)(A), struck out “or his delegate” after “Secretary”.

Subsec. (d)(1). Pub. L. 94-455, §§1209(d)(4), 1906(b)(13)(A), struck out provision that no additional notice shall be required in the case of successive levies with respect to such tax and “or his delegate” after “Secretary”.

Subsec. (d)(2). Pub. L. 94-455, §1906(b)(13)(A), struck out “or his delegate” after “Secretary”.

Subsec. (d)(3). Pub. L. 94-455, §1209(d)(1), added par. (3).

1971—Subsecs. (d), (e). Pub. L. 92-178 added subsec. (d) and redesignated former subsec. (d) as (e).

1966—Subsec. (b). Pub. L. 89-719 inserted sentence providing that a levy shall extend only to property possessed and obligations existing at the time thereof.

EFFECTIVE DATE OF 1998 AMENDMENT

Pub. L. 105-206, title III, §3433(b), July 22, 1998, 112 Stat. 760, provided that: “The amendment made by this section [amending this section] shall apply to unpaid tax attributable to taxable periods beginning after December 31, 1998.”

Pub. L. 105-206, title III, §3444(b), July 22, 1998, 112 Stat. 762, provided that: “The amendments made by this section [amending this section] shall take effect on the date of the enactment of this Act [July 22, 1998].”

Pub. L. 105-206, title III, §3462(e), July 22, 1998, 112 Stat. 766, provided that:

“(1) IN GENERAL.—The amendments made by this section [amending this section and sections 6159 and 7122 of this title] shall apply to proposed offers-in-compromise and installment agreements submitted after the date of the enactment of this Act [July 22, 1998].

“(2) SUSPENSION OF COLLECTION BY LEVY.—The amendment made by subsection (b) [amending this section] shall apply to offers-in-compromise pending on or made after December 31, 1999.”

Amendment by section 6010(f) of Pub. L. 105-206 effective, except as otherwise provided, as if included in the provisions of the Taxpayer Relief Act of 1997, Pub. L. 105-34, to which such amendment relates, see section 6024 of Pub. L. 105-206, set out as a note under section 1 of this title.

EFFECTIVE DATE OF 1997 AMENDMENT

Section 1024(b) of Pub. L. 105-34 provided that: “The amendment made by subsection (a) [amending this section] shall apply to levies issued after the date of the enactment of this Act [Aug. 5, 1997].”

EFFECTIVE DATE OF 1988 AMENDMENT

Section 6236(h) of Pub. L. 100-647 provided that:

“(1) IN GENERAL.—The amendments made by this section (other than subsection (g)) [amending this section and sections 6332, 6334, and 6343 of this title] shall apply to levies issued on or after July 1, 1989.

“(2) SUBSECTION (g).—The amendment made by subsection (g) [amending section 6335 of this title] shall apply to requests made on or after January 1, 1989.”

EFFECTIVE DATE OF 1984 AMENDMENT

Amendment by Pub. L. 98-369 effective as if included in the provision of the Tax Equity and Fiscal Responsibility Act of 1982, Pub. L. 97-248, to which such amendment relates, see section 715 of Pub. L. 98-369, set out as a note under section 31 of this title.

EFFECTIVE DATE OF 1982 AMENDMENT

Section 349(b) of Pub. L. 97-248 provided that: “The amendment made by subsection (a) [amending this section] shall apply to levies made after December 31, 1982.”

EFFECTIVE DATE OF 1976 AMENDMENT

Amendment by section 1209(d)(1), (2), (4) of Pub. L. 94-455 effective only with respect to levies made after Feb. 28, 1977, see section 1209(e) of Pub. L. 94-455 as amended by section 2(c) of Pub. L. 94-528, Oct. 17, 1976, 90 Stat. 2483, set out as a note under section 6334 of this title.

EFFECTIVE DATE OF 1971 AMENDMENT

Section 211(b) of Pub. L. 92-178 provided that: “The amendments made by this section [amending this section] shall apply with respect to levies made after March 31, 1972.”

EFFECTIVE DATE OF 1966 AMENDMENT

Amendment by Pub. L. 89-719 applicable after Nov. 2, 1966, regardless of when title or lien of United States

arose or when lien or interest of another person was acquired, with certain exceptions, see section 114(a)-(c) of Pub. L. 89-719, set out as a note under section 6323 of this title.

CROSS REFERENCES

Collection by levy where assessment made within limitation period, see section 6502 of this title.

Levy, definition of, see section 7701 of this title.

Notice and demand for tax, see section 6303 of this title.

Penalty for sales to avoid tax, see section 7341 of this title.

Property—

Exempt from levy, see section 6334 of this title.

Subject to lien generally, see section 6321 of this title.

Punishment for removing, depositing, or concealing goods or commodities, see section 7206 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 72, 6330, 6332, 6334, 6335, 6651, 6656, 6851, 6861, 6862, 7206, 7421, 7429 of this title.

§ 6332. Surrender of property subject to levy

(a) Requirement

Except as otherwise provided in this section, any person in possession of (or obligated with respect to) property or rights to property subject to levy upon which a levy has been made shall, upon demand of the Secretary, surrender such property or rights (or discharge such obligation) to the Secretary, except such part of the property or rights as is, at the time of such demand, subject to an attachment or execution under any judicial process.

(b) Special rule for life insurance and endowment contracts

(1) In general

A levy on an organization with respect to a life insurance or endowment contract issued by such organization shall, without necessity for the surrender of the contract document, constitute a demand by the Secretary for payment of the amount described in paragraph (2) and the exercise of the right of the person against whom the tax is assessed to the advance of such amount. Such organization shall pay over such amount 90 days after service of notice of levy. Such notice shall include a certification by the Secretary that a copy of such notice has been mailed to the person against whom the tax is assessed at his last known address.

(2) Satisfaction of levy

Such levy shall be deemed to be satisfied if such organization pays over to the Secretary the amount which the person against whom the tax is assessed could have had advanced to him by such organization on the date prescribed in paragraph (1) for the satisfaction of such levy, increased by the amount of any advance (including contractual interest thereon) made to such person on or after the date such organization had actual notice or knowledge (within the meaning of section 6323(i)(1)) of the existence of the lien with respect to which such levy is made, other than an advance (including contractual interest thereon) made automatically to maintain such contract in

force under an agreement entered into before such organization had such notice or knowledge.

(3) Enforcement proceedings

The satisfaction of a levy under paragraph (2) shall be without prejudice to any civil action for the enforcement of any lien imposed by this title with respect to such contract.

(c) Special rule for banks

Any bank (as defined in section 408(n)) shall surrender (subject to an attachment or execution under judicial process) any deposits (including interest thereon) in such bank only after 21 days after service of levy.

(d) Enforcement of levy

(1) Extent of personal liability

Any person who fails or refuses to surrender any property or rights to property, subject to levy, upon demand by the Secretary, shall be liable in his own person and estate to the United States in a sum equal to the value of the property or rights not so surrendered, but not exceeding the amount of taxes for the collection of which such levy has been made, together with costs and interest on such sum at the underpayment rate established under section 6621 from the date of such levy (or, in the case of a levy described in section 6331(d)(3), from the date such person would otherwise have been obligated to pay over such amounts to the taxpayer). Any amount (other than costs) recovered under this paragraph shall be credited against the tax liability for the collection of which such levy was made.

(2) Penalty for violation

In addition to the personal liability imposed by paragraph (1), if any person required to surrender property or rights to property fails or refuses to surrender such property or rights to property without reasonable cause, such person shall be liable for a penalty equal to 50 percent of the amount recoverable under paragraph (1). No part of such penalty shall be credited against the tax liability for the collection of which such levy was made.

(e) Effect of honoring levy

Any person in possession of (or obligated with respect to) property or rights to property subject to levy upon which a levy has been made who, upon demand by the Secretary, surrenders such property or rights to property (or discharges such obligation) to the Secretary (or who pays a liability under subsection (d)(1)) shall be discharged from any obligation or liability to the delinquent taxpayer and any other person with respect to such property or rights to property arising from such surrender or payment.

(f) Person defined

The term "person," as used in subsection (a), includes an officer or employee of a corporation or a member or employee of a partnership, who as such officer, employee, or member is under a duty to surrender the property or rights to property, or to discharge the obligation.

(Aug. 16, 1954, ch. 736, 68A Stat. 784; Pub. L. 89-719, title I, §104(b), Nov. 2, 1966, 80 Stat. 1135;

Pub. L. 93-625, §7(a)(2)(D), Jan. 3, 1975, 88 Stat. 2115; Pub. L. 94-455, title XII, §1209(d)(3), title XIX, §1906(b)(13)(A), Oct. 4, 1976, 90 Stat. 1710, 1834; Pub. L. 99-514, title XV, §1511(c)(9), Oct. 22, 1986, 100 Stat. 2745; Pub. L. 100-647, title I, §1015(t)(1), title VI, §6236(e), Nov. 10, 1988, 102 Stat. 3573, 3739; Pub. L. 101-508, title XI, §11704(a)(27), Nov. 5, 1990, 104 Stat. 1388-519.)

AMENDMENTS

1990—Subsec. (a). Pub. L. 101-508 substituted "this section" for "subsections (b) and (c)".

1988—Subsec. (a). Pub. L. 100-647, §6236(e)(2)(A), substituted "subsections (b) and (c)" for "subsection (b)".

Subsec. (c). Pub. L. 100-647, §6236(e)(1), added subsec. (c). Former subsec. (c) redesignated (d).

Subsec. (d). Pub. L. 100-647, §6236(e)(1), redesignated subsec. (c) as (d). Former subsec. (d) redesignated (e).

Pub. L. 100-647, §1015(t)(1), inserted "and any other person" after "delinquent taxpayer" and struck out sentence at end providing that in the case of a levy which is satisfied pursuant to subsection (b), such organization shall also be discharged from any obligation or liability to any beneficiary arising from such surrender or payment.

Subsec. (e). Pub. L. 100-647, §6236(e)(1), (2)(B), redesignated subsec. (d) as (e) and substituted "subsection (d)(1)" for "subsection (c)(1)". Former subsec. (e) redesignated (f).

Subsec. (f). Pub. L. 100-647, §6236(e)(1), redesignated subsec. (e) as (f).

1986—Subsec. (c)(1). Pub. L. 99-514 substituted "the underpayment rate established under section 6621" for "an annual rate established under section 6621".

1976—Subsecs. (a), (b). Pub. L. 94-455, §1906(b)(13)(A), struck out "or his delegate" after "Secretary" wherever appearing.

Subsec. (c)(1). Pub. L. 94-455, §§1209(d)(3), 1906(b)(13)(A), inserted "(or, in the case of a levy described in section 6331(d)(3), from the date such person would otherwise have been obligated to pay over such amounts to the taxpayer)" after "date of such levy", and struck out "or his delegate" after "Secretary".

Subsec. (d). Pub. L. 94-455, §1906(b)(13)(A), struck out "or his delegate" after "Secretary".

1975—Subsec. (c)(1). Pub. L. 93-625 substituted "an annual rate established under section 6621" for "the rate of 6 percent per annum".

1966—Subsec. (a). Pub. L. 89-719, §104(b)(1), substituted "Except as otherwise provided in subsection (b), any person" for "Any person".

Subsec. (b). Pub. L. 89-719, §104(b)(2), added subsec. (b). Former subsec. (b) redesignated, with amendments, as subsec. (c)(1).

Subsec. (c). Pub. L. 89-719, §104(b)(2)-(4), redesignated as par. (1) provisions formerly set out as subsec. (b), inserted provisions that any amount other than costs recovered under par. (1) shall be credited against the tax liability for the collection of which the levy was made, and added par. (2). Former subsec. (c) redesignated (e).

Subsec. (d). Pub. L. 89-719, §104(b)(4), added subsec. (d).

Subsec. (e). Pub. L. 89-719, §104(b)(3), redesignated former subsec. (c) as (e).

EFFECTIVE DATE OF 1988 AMENDMENT

Section 1015(t)(2) of Pub. L. 100-647 provided that: "The amendment made by this subsection [amending this section] shall apply to levies issued after the date of the enactment of this Act [Nov. 10, 1988]."

Amendment by section 6236(e) of Pub. L. 100-647 applicable to levies issued on or after July 1, 1989, see section 6236(h)(1) of Pub. L. 100-647, set out as a note under section 6331 of this title.

EFFECTIVE DATE OF 1986 AMENDMENT

Amendment by Pub. L. 99-514 applicable for purposes of determining interest for periods after Dec. 31, 1986,

see section 1511(d) of Pub. L. 99-514, set out as a note under section 47 of this title.

EFFECTIVE DATE OF 1976 AMENDMENT

Amendment by section 1209(d)(3) of Pub. L. 94-455 effective only with respect to levies made after Feb. 28, 1977, see section 1209(e) of Pub. L. 94-455, as amended by section 2(c) of Pub. L. 94-528, Oct. 17, 1976, 90 Stat. 2483, set out as a note under section 6334 of this title.

EFFECTIVE DATE OF 1975 AMENDMENT

Amendment by Pub. L. 93-625 effective July 1, 1975, and applicable to amounts outstanding on such date or arising thereafter, see section 7(e) of Pub. L. 93-625, set out as an Effective Date note under section 6621 of this title.

EFFECTIVE DATE OF 1966 AMENDMENT

Amendment by Pub. L. 89-719 applicable after Nov. 2, 1966, regardless of when title or lien of United States arose or when lien or interest of another person was acquired, with certain exceptions, see section 114(a)-(c) of Pub. L. 89-719, set out as a note under section 6323 of this title.

CROSS REFERENCES

Application of proceeds of levy, see section 6342 of this title.

Notice and demand for tax, see section 6303 of this title.

Payment on notice and demand, see section 6155 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 6323, 6342 of this title; title 29 section 1368; title 30 section 934.

§ 6333. Production of books

If a levy has been made or is about to be made on any property, or right to property, any person having custody or control of any books or records, containing evidence or statements relating to the property or right to property subject to levy, shall, upon demand of the Secretary, exhibit such books or records to the Secretary.

(Aug. 16, 1954, ch. 736, 68A Stat. 784; Pub. L. 94-455, title XIX, § 1906(b)(13)(A), Oct. 4, 1976, 90 Stat. 1834.)

AMENDMENTS

1976—Pub. L. 94-455 struck out “or his delegate” after “Secretary” wherever appearing.

§ 6334. Property exempt from levy

(a) Enumeration

There shall be exempt from levy—

(1) Wearing apparel and school books

Such items of wearing apparel and such school books as are necessary for the taxpayer or for members of his family;

(2) Fuel, provisions, furniture, and personal effects

So much of the fuel, provisions, furniture, and personal effects in the taxpayer's household, and of the arms for personal use, livestock, and poultry of the taxpayer, as does not exceed \$6,250 in value;

(3) Books and tools of a trade, business, or profession

So many of the books and tools necessary for the trade, business, or profession of the

taxpayer as do not exceed in the aggregate \$3,125 in value.

(4) Unemployment benefits

Any amount payable to an individual with respect to his unemployment (including any portion thereof payable with respect to dependents) under an unemployment compensation law of the United States, of any State, or of the District of Columbia or of the Commonwealth of Puerto Rico.

(5) Undelivered mail

Mail, addressed to any person, which has not been delivered to the addressee.

(6) Certain annuity and pension payments

Annuity or pension payments under the Railroad Retirement Act, benefits under the Railroad Unemployment Insurance Act, special pension payments received by a person whose name has been entered on the Army, Navy, Air Force, and Coast Guard Medal of Honor roll (38 U.S.C. 1562), and annuities based on retired or retainer pay under chapter 73 of title 10 of the United States Code.

(7) Workmen's compensation

Any amount payable to an individual as workmen's compensation (including any portion thereof payable with respect to dependents) under a workmen's compensation law of the United States, any State, the District of Columbia, or the Commonwealth of Puerto Rico.

(8) Judgments for support of minor children

If the taxpayer is required by judgment of a court of competent jurisdiction, entered prior to the date of levy, to contribute to the support of his minor children, so much of his salary, wages, or other income as is necessary to comply with such judgment.

(9) Minimum exemption for wages, salary, and other income

Any amount payable to or received by an individual as wages or salary for personal services, or as income derived from other sources, during any period, to the extent that the total of such amounts payable to or received by him during such period does not exceed the applicable exempt amount determined under subsection (d).

(10) Certain service-connected disability payments

Any amount payable to an individual as a service-connected (within the meaning of section 101(16) of title 38, United States Code) disability benefit under—

(A) subchapter II, III, IV, V,¹ or VI of chapter 11 of such title 38, or

(B) chapter 13, 21, 23, 31, 32, 34, 35, 37, or 39 of such title 38.

(11) Certain public assistance payments

Any amount payable to an individual as a recipient of public assistance under—

(A) title IV or title XVI (relating to supplemental security income for the aged, blind, and disabled) of the Social Security Act, or

¹ So in original.

(B) State or local government public assistance or public welfare programs for which eligibility is determined by a needs or income test.

(12) Assistance under Job Training Partnership Act

Any amount payable to a participant under the Job Training Partnership Act (29 U.S.C. 1501 et seq.) from funds appropriated pursuant to such Act.

(13) Residences exempt in small deficiency cases and principal residences and certain business assets exempt in absence of certain approval or jeopardy

(A) Residences in small deficiency cases

If the amount of the levy does not exceed \$5,000—

- (i) any real property used as a residence by the taxpayer; or
- (ii) any real property of the taxpayer (other than real property which is rented) used by any other individual as a residence.

(B) Principal residences and certain business assets

Except to the extent provided in subsection (e)—

- (i) the principal residence of the taxpayer (within the meaning of section 121); and
- (ii) tangible personal property or real property (other than real property which is rented) used in the trade or business of an individual taxpayer.

(b) Appraisal

The officer seizing property of the type described in subsection (a) shall appraise and set aside to the owner the amount of such property declared to be exempt. If the taxpayer objects at the time of the seizure to the valuation fixed by the officer making the seizure, the Secretary shall summon three disinterested individuals who shall make the valuation.

(c) No other property exempt

Notwithstanding any other law of the United States (including section 207 of the Social Security Act), no property or rights to property shall be exempt from levy other than the property specifically made exempt by subsection (a).

(d) Exempt amount of wages, salary, or other income

(1) Individuals on weekly basis

In the case of an individual who is paid or receives all of his wages, salary, and other income on a weekly basis, the amount of the wages, salary, and other income payable to or received by him during any week which is exempt from levy under subsection (a)(9) shall be the exempt amount.

(2) Exempt amount

For purposes of paragraph (1), the term “exempt amount” means an amount equal to—

- (A) the sum of—
 - (i) the standard deduction, and
 - (ii) the aggregate amount of the deductions for personal exemptions allowed the

taxpayer under section 151 in the taxable year in which such levy occurs, divided by (B) 52.

Unless the taxpayer submits to the Secretary a written and properly verified statement specifying the facts necessary to determine the proper amount under subparagraph (A), subparagraph (A) shall be applied as if the taxpayer were a married individual filing a separate return with only 1 personal exemption.

(3) Individuals on basis other than weekly

In the case of any individual not described in paragraph (1), the amount of the wages, salary, and other income payable to or received by him during any applicable pay period or other fiscal period (as determined under regulations prescribed by the Secretary) which is exempt from levy under subsection (a)(9) shall be an amount (determined under such regulations) which as nearly as possible will result in the same total exemption from levy for such individual over a period of time as he would have under paragraph (1) if (during such period of time) he were paid or received such wages, salary, and other income on a regular weekly basis.

(e) Levy allowed on principal residences and certain business assets in certain circumstances

(1) Principal residences

(A) Approval required

A principal residence shall not be exempt from levy if a judge or magistrate of a district court of the United States approves (in writing) the levy of such residence.

(B) Jurisdiction

The district courts of the United States shall have exclusive jurisdiction to approve a levy under subparagraph (A).

(2) Certain business assets

Property (other than a principal residence) described in subsection (a)(13)(B) shall not be exempt from levy if—

- (A) a district director or assistant district director of the Internal Revenue Service personally approves (in writing) the levy of such property; or
- (B) the Secretary finds that the collection of tax is in jeopardy.

An official may not approve a levy under subparagraph (A) unless the official determines that the taxpayer's other assets subject to collection are insufficient to pay the amount due, together with expenses of the proceedings.

(f) Levy allowed on certain specified payments

Any payment described in subparagraph (B) or (C) of section 6331(h)(2) shall not be exempt from levy if the Secretary approves the levy thereon under section 6331(h).

(g) Inflation adjustment

(1) In general

In the case of any calendar year beginning after 1999, each dollar amount referred to in paragraphs (2) and (3) of subsection (a) shall be increased by an amount equal to—

- (A) such dollar amount, multiplied by

(B) the cost-of-living adjustment determined under section 1(f)(3) for such calendar year, by substituting “calendar year 1998” for “calendar year 1992” in subparagraph (B) thereof.

(2) Rounding

If any dollar amount after being increased under paragraph (1) is not a multiple of \$10, such dollar amount shall be rounded to the nearest multiple of \$10.

(Aug. 16, 1954, ch. 736, 68A Stat. 784; Pub. L. 85-840, title IV, § 406, Aug. 28, 1958, 72 Stat. 1047; Pub. L. 89-44, title VIII, § 812(a), June 21, 1965, 79 Stat. 170; Pub. L. 89-719, title I, § 104(c), Nov. 2, 1966, 80 Stat. 1137; Pub. L. 91-172, title IX, § 945(a), Dec. 30, 1969, 83 Stat. 729; Pub. L. 94-455, title XII, § 1209(a)-(c), title XIX, § 1906(b)(13)(A), Oct. 4, 1976, 90 Stat. 1709, 1710, 1834; Pub. L. 97-248, title III, § 347(a), Sept. 3, 1982, 96 Stat. 638; Pub. L. 98-369, div. B, title VI, § 2661(o)(5), July 18, 1984, 98 Stat. 1159; Pub. L. 99-514, title XV, § 1565(a), Oct. 22, 1986, 100 Stat. 2763; Pub. L. 100-647, title I, § 1015(o), title VI, § 6236(c), Nov. 10, 1988, 102 Stat. 3572, 3738; Pub. L. 102-83, § 5(c)(2), Aug. 6, 1991, 105 Stat. 406; Pub. L. 104-168, title V, § 502(a)-(c), July 30, 1996, 110 Stat. 1461; Pub. L. 104-193, title I, § 110(l)(3), formerly § 110(l)(6), Aug. 22, 1996, 110 Stat. 2173, renumbered and amended Pub. L. 105-33, title V, § 5514(a)(2), (3), Aug. 5, 1997, 111 Stat. 620; Pub. L. 105-34, title III, § 312(d)(1), title X, § 1025(a), Aug. 5, 1997, 111 Stat. 839, 924; Pub. L. 105-206, title III, §§ 3431(a)-(c), 3445(a), (b), July 22, 1998, 112 Stat. 758, 762, 763.)

REFERENCES IN TEXT

The Railroad Retirement Act, referred to in subsec. (a)(6), is act Aug. 29, 1935, ch. 812, as amended generally by Pub. L. 93-445, title I, § 101, Oct. 16, 1974, 88 Stat. 1305, known as the Railroad Retirement Act of 1974, which is classified generally to subchapter IV (§ 231 et seq.) of chapter 9 of Title 45, Railroads. For further details and complete classification of this Act to the Code, see Codification note set out preceding section 231 of Title 45, section 231t of Title 45, and Tables.

The Railroad Unemployment Insurance Act, referred to in subsec. (a)(6), is act June 25, 1938, ch. 680, 52 Stat. 1094, as amended, which is classified principally to chapter 11 (§ 351 et seq.) of Title 45. For complete classification of this Act to the Code, see section 367 of Title 45 and Tables.

The Social Security Act, referred to in subsecs. (a)(11)(A) and (c), is act Aug. 14, 1935, ch. 531, 49 Stat. 620, as amended. Titles IV and XVI of the Social Security Act are classified generally to subchapters IV (§ 601 et seq.) and XVI (§ 1381 et seq.), respectively, of chapter 7 of Title 42, The Public Health and Welfare. Section 207 of the Social Security Act is classified to section 407 of Title 42. For complete classification of this Act to the Code, see section 1305 of Title 42 and Tables.

The Job Training Partnership Act, referred to in subsec. (a)(12), is Pub. L. 97-300, Oct. 13, 1982, 96 Stat. 1322, as amended, which is classified generally to chapter 19 (§ 1501 et seq.) of Title 29, Labor. For complete classification of this Act to the Code, see Short Title note set out under section 1501 of Title 29 and Tables.

AMENDMENTS

1998—Subsec. (a)(2). Pub. L. 105-206, § 3431(a), substituted “\$6,250” for “\$2,500”.

Subsec. (a)(3). Pub. L. 105-206, § 3431(b), substituted “\$3,125” for “\$1,250”.

Subsec. (a)(13). Pub. L. 105-206, § 3445(a), amended heading and text of par. (13) generally. Prior to amend-

ment, text read as follows: “Except to the extent provided in subsection (e), the principal residence of the taxpayer (within the meaning of section 121).”

Subsec. (e). Pub. L. 105-206, § 3445(b), amended heading and text of subsec. (e) generally. Prior to amendment, text read as follows: “Property described in subsection (a)(13) shall not be exempt from levy if—

“(1) a district director or assistant district director of the Internal Revenue Service personally approves (in writing) the levy of such property, or

“(2) the Secretary finds that the collection of tax is in jeopardy.”

Subsec. (g)(1). Pub. L. 105-206, § 3431(c)(1), substituted “1999” for “1997” in introductory provisions.

Subsec. (g)(1)(B). Pub. L. 105-206, § 3431(c)(2), substituted “1998” for “1996”.

1997—Subsec. (a)(11)(A). Pub. L. 105-33, § 5514(a)(3), made technical amendment to directory language of Pub. L. 104-193, § 110(l)(3). See 1996 Amendment note below.

Subsec. (a)(13). Pub. L. 105-34, § 312(d)(1), substituted “section 121” for “section 1034”.

Subsecs. (f), (g). Pub. L. 105-34 added subsec. (f) and redesignated former subsec. (f) as (g).

1996—Subsec. (a)(2). Pub. L. 104-168, § 502(a), substituted “So” for “If the taxpayer is the head of a family, so”, “the taxpayer’s household” for “his household”, and “\$2,500” for “\$1,650 (\$1,550 in the case of levies issued during 1989)”.

Subsec. (a)(3). Pub. L. 104-168, § 502(b), substituted “\$1,250” for “\$1,100 (\$1,050 in the case of levies issued during 1989)”.

Subsec. (a)(11)(A). Pub. L. 104-193, § 110(l)(3), formerly § 110(l)(6), as renumbered and amended by Pub. L. 105-33, struck out “(relating to aid to families with dependent children)” after “title IV”.

Subsec. (f). Pub. L. 104-168, § 502(c), added subsec. (f). 1991—Subsec. (a)(6). Pub. L. 102-83 substituted “1562” for “562”.

1988—Subsec. (a)(2). Pub. L. 100-647, § 6236(c)(1), substituted “\$1,650 (\$1,550 in the case of levies issued during 1989)” for “\$1,500”.

Subsec. (a)(3). Pub. L. 100-647, § 6236(c)(2), substituted “\$1,100 (\$1,050 in the case of levies issued during 1989)” for “\$1,000”.

Subsec. (a)(10)(A). Pub. L. 100-647, § 1015(o)(1), substituted “III, IV, V,” for “IV” and added “or” at end.

Subsec. (a)(10)(B), (C). Pub. L. 100-647, § 1015(o)(2), (3), redesignated subpar. (C) as (B) and substituted “13, 21, 23” for “21”, and struck out former subpar. (B), which read as follows: “subchapter I, II, or III of chapter 19 of such title 38, or”.

Subsec. (a)(11) to (13). Pub. L. 100-647, § 6236(c)(4)(A), added pars. (11) to (13).

Subsec. (d)(1). Pub. L. 100-647, § 6236(c)(3)(A), amended par. (1) generally, striking out after introductory provisions the following definition of exempt amount:

“(A) \$75, plus

“(B) \$25 for each individual who is specified in a written statement which is submitted to the person on whom notice of levy is served and which is verified in such manner as the Secretary shall prescribe by regulations and—

“(i) over half of whose support for the payroll period was received from the taxpayer,

“(ii) who is the spouse of the taxpayer, or who bears a relationship to the taxpayer specified in paragraphs (1) through (9) of section 152(a) (relating to definition of dependents), and

“(iii) who is not a minor child of the taxpayer with respect to whom amounts are exempt from levy under subsection (a)(8) for the payroll period. For purposes of subparagraph (B)(ii) of the preceding sentence, ‘payroll period’ shall be substituted for ‘taxable year’ each place it appears in paragraph (9) of section 152(a).”

Subsec. (d)(2), (3). Pub. L. 100-647, § 6236(c)(3)(B), added par. (2) and redesignated former par. (2) as (3).

Subsec. (e). Pub. L. 100-647, § 6236(c)(4)(B), added subsec. (e).

1986—Subsec. (a)(10). Pub. L. 99-514 added par. (10).
 1984—Subsec. (c). Pub. L. 98-369 inserted “(including section 207 of the Social Security Act)”.

1982—Subsec. (a)(2). Pub. L. 97-248, § 347(a)(1), substituted “\$1,500” for “\$500”.

Subsec. (a)(3). Pub. L. 97-248, § 347(a)(2), substituted “\$1,000” for “\$250”.

Subsec. (d)(1)(A). Pub. L. 97-248, § 347(a)(3)(A), substituted “\$75” for “\$50”.

Subsec. (d)(1)(B). Pub. L. 97-248, § 347(a)(3)(B), substituted “\$25” for “\$15”.

1976—Subsec. (a)(8). Pub. L. 94-455, § 1209(c), substituted “Judgments for support of minor children” for “Salary, wages, or other income” in heading.

Subsec. (a)(9). Pub. L. 94-455, § 1209(a), added par. (9).
 Subsec. (b). Pub. L. 94-455, § 1906(b)(13)(A), struck out “or his delegate” after “Secretary”.

Subsec. (d). Pub. L. 94-455, § 1209(b), added subsec. (d).
 1969—Subsec. (a)(8). Pub. L. 91-172 added par. (8).

1966—Subsec. (a)(4). Pub. L. 89-719, § 104(c)(1), struck out “or Territory” after “of any State”.

Subsec. (a)(6), (7). Pub. L. 89-719, § 104(c)(2), added pars. (6) and (7).

1965—Subsec. (a)(5). Pub. L. 89-44 added par. (5).

1958—Subsec. (a)(4). Pub. L. 85-840 added par. (4).

EFFECTIVE DATE OF 1998 AMENDMENT

Pub. L. 105-206, title III, § 3431(d), July 22, 1998, 112 Stat. 758, provided that: “The amendments made by this section [amending this section] shall take effect with respect to levies issued after the date of the enactment of this Act [July 22, 1998].”

Pub. L. 105-206, title III, § 3445(d), July 22, 1998, 112 Stat. 763, provided that: “The amendments made by this section [amending this section] shall take effect on the date of the enactment of this Act [July 22, 1998].”

EFFECTIVE DATE OF 1997 AMENDMENTS

Amendment by section 312(d)(1) of Pub. L. 105-34 applicable to sales and exchanges after May 6, 1997, with certain exceptions, see section 312(d) of Pub. L. 105-34, set out as a note under section 121 of this title.

Section 1025(b) of Pub. L. 105-34 provided that: “The amendment made by subsection (a) [amending this section] shall apply to levies issued after the date of the enactment of this Act [Aug. 5, 1997].”

Amendment by Pub. L. 105-33 effective as if included in section 110 of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996, Pub. L. 104-193, at the time such section 110 became law, see section 5518(c) of Pub. L. 105-33, set out as a note under section 51 of this title.

EFFECTIVE DATE OF 1996 AMENDMENTS

Amendment by section 110(l)(3) of Pub. L. 104-193 effective July 1, 1997, with transition rules relating to State options to accelerate such date, rules relating to claims, actions, and proceedings commenced before such date, rules relating to closing out of accounts for terminated or substantially modified programs and continuance in office of Assistant Secretary for Family Support, and provisions relating to termination of entitlement under AFDC program, see section 116 of Pub. L. 104-193, as amended, set out as an Effective Date note under section 601 of Title 42, The Public Health and Welfare.

Section 502(d) of Pub. L. 104-168 provided that: “The amendments made by this section [amending this section] shall take effect with respect to levies issued after December 31, 1996.”

EFFECTIVE DATE OF 1988 AMENDMENT

Section 1015(o) of Pub. L. 100-647 provided that the amendment made by that section is effective with respect to levies made after Dec. 31, 1988.

Amendment by section 6236(c) of Pub. L. 100-647 applicable to levies issued on or after July 1, 1989, see section 6236(h)(1) of Pub. L. 100-647, set out as a note under section 6331 of this title.

EFFECTIVE DATE OF 1986 AMENDMENT

Section 1565(b) of Pub. L. 99-514 provided that: “The amendment made by this section [amending this section] shall apply to amounts payable after December 31, 1986.”

EFFECTIVE DATE OF 1984 AMENDMENT

Amendment by Pub. L. 98-369 effective as though included in the enactment of the Social Security Amendments of 1983, Pub. L. 98-21, see section 2664(a) of Pub. L. 98-369, set out as a note under section 401 of Title 42, The Public Health and Welfare.

EFFECTIVE DATE OF 1982 AMENDMENT

Section 347(b) of Pub. L. 97-248 provided that: “The amendments made by subsection (a) [amending this section] shall apply to levies made after December 31, 1982.”

EFFECTIVE DATE OF 1976 AMENDMENT

Section 1209(e) of Pub. L. 94-455, as amended by Pub. L. 94-528, § 2(c), Oct. 17, 1976, 90 Stat. 2483, provided that: “The amendments made by this section [amending this section and sections 6331 and 6332 of this title] shall apply only with respect to levies made after February 28, 1977.”

EFFECTIVE DATE OF 1969 AMENDMENT

Section 945(b) of Pub. L. 91-172 provided that: “The amendment made by subsection (a) [amending this section] shall apply with respect to levies made 30 days or more after the date of the enactment of this Act [Dec. 30, 1969].”

EFFECTIVE DATE OF 1966 AMENDMENT

Amendment by Pub. L. 89-719 applicable after Nov. 2, 1966, regardless of when title or lien of United States arose or when lien or interest of another person was acquired, with certain exceptions, see section 114(a)-(c) of Pub. L. 89-719, set out as a note under section 6323 of this title.

EFFECTIVE DATE OF 1965 AMENDMENT

Section 812(b) of Pub. L. 89-44 provided that: “The amendment made by subsection (a) [amending this section] shall take effect on the date of the enactment of this Act [June 21, 1965].”

STATE FISH AND WILDLIFE PERMITS

Pub. L. 105-206, title III, § 3445(c), July 22, 1998, 112 Stat. 763, provided that:

“(1) IN GENERAL.—With respect to permits issued by a State and required under State law for the harvest of fish or wildlife in the trade or business of an individual taxpayer, the term ‘other assets’ as used in section 6334(e)(2) of the Internal Revenue Code of 1986 shall include future income which may be derived by such taxpayer from the commercial sale of fish or wildlife under such permit.

“(2) CONSTRUCTION.—Paragraph (1) shall not be construed to invalidate or in any way prejudice any assertion that the privilege embodied in permits described in paragraph (1) is not property or a right to property under the Internal Revenue Code of 1986.”

CROSS REFERENCES

Property subject to levy and distraint, see section 6331 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 6305, 6323, 6331 of this title; title 18 section 3613.

§ 6335. Sale of seized property

(a) Notice of seizure

As soon as practicable after seizure of property, notice in writing shall be given by the Sec-

retary to the owner of the property (or, in the case of personal property, the possessor thereof), or shall be left at his usual place of abode or business if he has such within the internal revenue district where the seizure is made. If the owner cannot be readily located, or has no dwelling or place of business within such district, the notice may be mailed to his last known address. Such notice shall specify the sum demanded and shall contain, in the case of personal property, an account of the property seized and, in the case of real property, a description with reasonable certainty of the property seized.

(b) Notice of sale

The Secretary shall as soon as practicable after the seizure of the property give notice to the owner, in the manner prescribed in subsection (a), and shall cause a notification to be published in some newspaper published or generally circulated within the county wherein such seizure is made, or if there be no newspaper published or generally circulated in such county, shall post such notice at the post office nearest the place where the seizure is made, and in not less than two other public places. Such notice shall specify the property to be sold, and the time, place, manner, and conditions of the sale thereof. Whenever levy is made without regard to the 10-day period provided in section 6331(a), public notice of sale of the property seized shall not be made within such 10-day period unless section 6336 (relating to sale of perishable goods) is applicable.

(c) Sale of indivisible property

If any property liable to levy is not divisible, so as to enable the Secretary by sale of a part thereof to raise the whole amount of the tax and expenses, the whole of such property shall be sold.

(d) Time and place of sale

The time of sale shall not be less than 10 days nor more than 40 days from the time of giving public notice under subsection (b). The place of sale shall be within the county in which the property is seized, except by special order of the Secretary.

(e) Manner and conditions of sale

(1) In general

(A) Determinations relating to minimum price

Before the sale of property seized by levy, the Secretary shall determine—

(i) a minimum price below which such property shall not be sold (taking into account the expense of making the levy and conducting the sale), and

(ii) whether, on the basis of criteria prescribed by the Secretary, the purchase of such property by the United States at such minimum price would be in the best interest of the United States.

(B) Sale to highest bidder at or above minimum price

If, at the sale, one or more persons offer to purchase such property for not less than the amount of the minimum price, the property shall be declared sold to the highest bidder.

(C) Property deemed sold to United States at minimum price in certain cases

If no person offers the amount of the minimum price for such property at the sale and the Secretary has determined that the purchase of such property by the United States would be in the best interest of the United States, the property shall be declared to be sold to the United States at such minimum price.

(D) Release to owner in other cases

If, at the sale, the property is not declared sold under subparagraph (B) or (C), the property shall be released to the owner thereof and the expense of the levy and sale shall be added to the amount of tax for the collection of which the levy was made. Any property released under this subparagraph shall remain subject to any lien imposed by subchapter C.

(2) Additional rules applicable to sale

The Secretary shall by regulations prescribe the manner and other conditions of the sale of property seized by levy. If one or more alternative methods or conditions are permitted by regulations, the Secretary shall select the alternatives applicable to the sale. Such regulations shall provide:

(A) That the sale shall not be conducted in any manner other than—

- (i) by public auction, or
- (ii) by public sale under sealed bids.

(B) In the case of the seizure of several items of property, whether such items shall be offered separately, in groups, or in the aggregate; and whether such property shall be offered both separately (or in groups) and in the aggregate, and sold under whichever method produces the highest aggregate amount.

(C) Whether the announcement of the minimum price determined by the Secretary may be delayed until the receipt of the highest bid.

(D) Whether payment in full shall be required at the time of acceptance of a bid, or whether a part of such payment may be deferred for such period (not to exceed 1 month) as may be determined by the Secretary to be appropriate.

(E) The extent to which methods (including advertising) in addition to those prescribed in subsection (b) may be used in giving notice of the sale.

(F) Under what circumstances the Secretary may adjourn the sale from time to time (but such adjournments shall not be for a period to exceed in all 1 month).

(3) Payment of amount bid

If payment in full is required at the time of acceptance of a bid and is not then and there paid, the Secretary shall forthwith proceed to again sell the property in the manner provided in this subsection. If the conditions of the sale permit part of the payment to be deferred, and if such part is not paid within the prescribed period, suit may be instituted against the purchaser for the purchase price or such part

thereof as has not been paid, together with interest at the rate of 6 percent per annum from the date of the sale; or, in the discretion of the Secretary, the sale may be declared by the Secretary to be null and void for failure to make full payment of the purchase price and the property may again be advertised and sold as provided in subsections (b) and (c) and this subsection. In the event of such readvertisement and sale any new purchaser shall receive such property or rights to property, free and clear of any claim or right of the former defaulting purchaser, of any nature whatsoever, and the amount paid upon the bid price by such defaulting purchaser shall be forfeited.

(4) Cross reference

For provision providing for civil damages for violation of paragraph (1)(A)(i), see section 7433.

(f) Right to request sale of seized property within 60 days

The owner of any property seized by levy may request that the Secretary sell such property within 60 days after such request (or within such longer period as may be specified by the owner). The Secretary shall comply with such request unless the Secretary determines (and notifies the owner within such period) that such compliance would not be in the best interests of the United States.

(g) Stay of sale of seized property pending Tax Court decision

For restrictions on sale of seized property pending Tax Court decision, see section 6863(b)(3).

(Aug. 16, 1954, ch. 736, 68A Stat. 785; Pub. L. 89-719, title I, §104(d), Nov. 2, 1966, 80 Stat. 1137; Pub. L. 94-455, title XIX, §1906(b)(13)(A), Oct. 4, 1976, 90 Stat. 1834; Pub. L. 99-514, title XV, §1570(a), Oct. 22, 1986, 100 Stat. 2764; Pub. L. 100-647, title VI, §6236(g), Nov. 10, 1988, 102 Stat. 3740; Pub. L. 105-206, title III, §3441(a), (b), July 22, 1998, 112 Stat. 761.)

AMENDMENTS

1998—Subsec. (e)(1)(A)(i). Pub. L. 105-206, §3441(a), substituted “a minimum price below which such property shall not be sold” for “a minimum price for which such property shall be sold”.

Subsec. (e)(4). Pub. L. 105-206, §3441(b), added par. (4).
1988—Subsecs. (f), (g). Pub. L. 100-647 added subsec. (f) and redesignated former subsec. (f) as (g).

1986—Subsec. (e)(1). Pub. L. 99-514 amended par. (1) generally. Prior to amendment, par. (1) “Minimum price” read as follows: “Before the sale the Secretary shall determine a minimum price for which the property shall be sold, and if no person offers for such property at the sale the amount of the minimum price, the property shall be declared to be purchased at such price for the United States; otherwise the property shall be declared to be sold to the highest bidder. In determining the minimum price, the Secretary shall take into account the expense of making the levy and sale.”

1976—Pub. L. 94-455 struck out “or his delegate” after “Secretary” wherever appearing.

1966—Subsec. (b). Pub. L. 89-719 inserted an alternative to the publication of notice of sale to allow publication in a newspaper generally circulated within the county in which the property is seized even though the newspaper is not published in such county.

EFFECTIVE DATE OF 1998 AMENDMENT

Pub. L. 105-206, title III, §3441(c), July 22, 1998, 112 Stat. 761, provided that: “The amendments made by

this section [amending this section] shall apply to sales made after the date of the enactment of this Act [July 22, 1998].”

EFFECTIVE DATE OF 1988 AMENDMENT

Amendment by Pub. L. 100-647 applicable to requests made on or after Jan. 1, 1989, see section 6236(h)(2) of Pub. L. 100-647, set out as a note under section 6331 of this title.

EFFECTIVE DATE OF 1986 AMENDMENT

Section 1570(b) of Pub. L. 99-514 provided that: “The amendment made by subsection (a) [amending this section] shall apply to—

“(1) property seized after the date of the enactment of this Act [Oct. 22, 1986], and

“(2) property seized on or before such date which is held by the United States on such date.”

EFFECTIVE DATE OF 1966 AMENDMENT

Amendment by Pub. L. 89-719 applicable after Nov. 2, 1966, regardless of when title or lien of United States arose or when lien or interest of another person was acquired, with certain exceptions, see section 114(a)-(c) of Pub. L. 89-719, set out as a note under section 6323 of this title.

UNIFORM ASSET DISPOSAL MECHANISM

Pub. L. 105-206, title III, §3443, July 22, 1998, 112 Stat. 762, provided that: “Not later than the date which is 2 years after the date of the enactment of this Act [July 22, 1998], the Secretary of the Treasury or the Secretary’s delegate shall implement a uniform asset disposal mechanism for sales under section 6335 of the Internal Revenue Code of 1986. The mechanism should be designed to remove any participation in such sales by revenue officers of the Internal Revenue Service and should consider the use of outsourcing.”

CROSS REFERENCES

Date when levy is considered made, see section 6502 of this title.

Real property purchased by United States, see section 6338 of this title.

Sale of personal property purchased by the United States, see section 7505 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 6331, 6337, 6338, 6339, 6340, 6343, 6502, 7426 of this title.

§ 6336. Sale of perishable goods

If the Secretary determines that any property seized is liable to perish or become greatly reduced in price or value by keeping, or that such property cannot be kept without great expense, he shall appraise the value of such property and—

(1) Return to owner

If the owner of the property can be readily found, the Secretary shall give him notice of such determination of the appraised value of the property. The property shall be returned to the owner if, within such time as may be specified in the notice, the owner—

(A) Pays to the Secretary an amount equal to the appraised value, or

(B) Gives bond in such form, with such sureties, and in such amount as the Secretary shall prescribe, to pay the appraised amount at such time as the Secretary determines to be appropriate in the circumstances.

(2) Immediate sale

If the owner does not pay such amount or furnish such bond in accordance with this sec-

tion, the Secretary shall as soon as practicable make public sale of the property in accordance with such regulations as may be prescribed by the Secretary.

(Aug. 16, 1954, ch. 736, 68A Stat. 786; Pub. L. 94-455, title XIX, §1906(b)(13)(A), Oct. 4, 1976, 90 Stat. 1834.)

AMENDMENTS

1976—Pub. L. 94-455 struck out “or his delegate” after “Secretary” wherever appearing.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 6335, 6863, 7103 of this title.

§ 6337. Redemption of property

(a) Before sale

Any person whose property has been levied upon shall have the right to pay the amount due, together with the expenses of the proceeding, if any, to the Secretary at any time prior to the sale thereof, and upon such payment the Secretary shall restore such property to him, and all further proceedings in connection with the levy on such property shall cease from the time of such payment.

(b) Redemption of real estate after sale

(1) Period

The owners of any real property sold as provided in section 6335, their heirs, executors, or administrators, or any person having any interest therein, or a lien thereon, or any person in their behalf, shall be permitted to redeem the property sold, or any particular tract of such property, at any time within 180 days after the sale thereof.

(2) Price

Such property or tract of property shall be permitted to be redeemed upon payment to the purchaser, or in case he cannot be found in the county in which the property to be redeemed is situated, then to the Secretary, for the use of the purchaser, his heirs, or assigns, the amount paid by such purchaser and interest thereon at the rate of 20 percent per annum.

(c) Record

When any lands sold are redeemed as provided in this section, the Secretary shall cause entry of the fact to be made upon the record mentioned in section 6340, and such entry shall be evidence of such redemption.

(Aug. 16, 1954, ch. 736, 68A Stat. 787; Pub. L. 89-719, title I, §104(e), Nov. 2, 1966, 80 Stat. 1137; Pub. L. 94-455, title XIX, §1906(b)(13)(A), Oct. 4, 1976, 90 Stat. 1834; Pub. L. 97-248, title III, §349A(a), Sept. 3, 1982, 96 Stat. 639.)

AMENDMENTS

1982—Subsec. (b)(1). Pub. L. 97-248 substituted “180 days” for “120 days”.

1976—Pub. L. 94-455 struck out “or his delegate” after “Secretary” wherever appearing.

1966—Subsec. (b)(1). Pub. L. 89-719 substituted “120 days” for “1 year”.

EFFECTIVE DATE OF 1982 AMENDMENT

Section 349A(b) of Pub. L. 97-248 provided that: “The amendment made by subsection (a) [amending this sec-

tion] shall apply with respect to property sold after the date of the enactment of this Act [Sept. 3, 1982].”

EFFECTIVE DATE OF 1966 AMENDMENT

Amendment by Pub. L. 89-719 applicable after Nov. 2, 1966, regardless of when title or lien of United States arose or when lien or interest of another person was acquired, with certain exceptions, see section 114(a)-(c) of Pub. L. 89-719, set out as a note under section 6323 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 6338 of this title.

§ 6338. Certificate of sale; deed of real property

(a) Certificate of sale

In the case of property sold as provided in section 6335, the Secretary shall give to the purchaser a certificate of sale upon payment in full of the purchase price. In the case of real property, such certificate shall set forth the real property purchased, for whose taxes the same was sold, the name of the purchaser, and the price paid therefor.

(b) Deed to real property

In the case of any real property sold as provided in section 6335 and not redeemed in the manner and within the time provided in section 6337, the Secretary shall execute (in accordance with the laws of the State in which such real property is situated pertaining to sales of real property under execution) to the purchaser of such real property at such sale, upon his surrender of the certificate of sale, a deed of the real property so purchased by him, reciting the facts set forth in the certificate.

(c) Real property purchased by United States

If real property is declared purchased by the United States at a sale pursuant to section 6335, the Secretary shall at the proper time execute a deed therefor; and without delay cause such deed to be duly recorded in the proper registry of deeds.

(Aug. 16, 1954, ch. 736, 68A Stat. 787; Pub. L. 85-866, title I, §78, Sept. 2, 1958, 72 Stat. 1662; Pub. L. 89-719, title I, §104(f), Nov. 2, 1966, 80 Stat. 1137; Pub. L. 94-455, title XIX, §1906(b)(13)(A), Oct. 4, 1976, 90 Stat. 1834.)

AMENDMENTS

1976—Pub. L. 94-455 struck out “or his delegate” after “Secretary” wherever appearing.

1966—Subsec. (c). Pub. L. 89-719 struck out provisions requiring the endorsement of approval as to the form of the deed by the United States Attorney for the district in which the property is situated.

1958—Subsec. (c). Pub. L. 85-866 struck out “district” before “attorney”.

EFFECTIVE DATE OF 1966 AMENDMENT

Amendment by Pub. L. 89-719 applicable after Nov. 2, 1966, regardless of when title or lien of United States arose or when lien or interest of another person was acquired, with certain exceptions, see section 114(a)-(c) of Pub. L. 89-719, set out as a note under section 6323 of this title.

EFFECTIVE DATE OF 1958 AMENDMENT

Amendment by Pub. L. 85-866 effective Aug. 17, 1954, see section 1(c)(2) of Pub. L. 85-866, set out as a note under section 165 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 6339 of this title.

§ 6339. Legal effect of certificate of sale of personal property and deed of real property

(a) Certificate of sale of property other than real property

In all cases of sale pursuant to section 6335 of property (other than real property), the certificate of such sale—

(1) As evidence

Shall be prima facie evidence of the right of the officer to make such sale, and conclusive evidence of the regularity of his proceedings in making the sale; and

(2) As conveyances

Shall transfer to the purchaser all right, title, and interest of the party delinquent in and to the property sold; and

(3) As authority for transfer of corporate stock

If such property consists of stocks, shall be notice, when received, to any corporation, company, or association of such transfer, and shall be authority to such corporation, company, or association to record the transfer on its books and records in the same manner as if the stocks were transferred or assigned by the party holding the same, in lieu of any original or prior certificate, which shall be void, whether canceled or not; and

(4) As receipts

If the subject of sale is securities or other evidences of debt, shall be a good and valid receipt to the person holding the same, as against any person holding or claiming to hold possession of such securities or other evidences of debt; and

(5) As authority for transfer of title to motor vehicle

If such property consists of a motor vehicle, shall be notice, when received, to any public official charged with the registration of title to motor vehicles, of such transfer and shall be authority to such official to record the transfer on his books and records in the same manner as if the certificate of title to such motor vehicle were transferred or assigned by the party holding the same, in lieu of any original or prior certificate, which shall be void, whether canceled or not.

(b) Deed of real property

In the case of the sale of real property pursuant to section 6335—

(1) Deed as evidence

The deed of sale given pursuant to section 6338 shall be prima facie evidence of the facts therein stated; and

(2) Deed as conveyance of title

If the proceedings of the Secretary as set forth have been substantially in accordance with the provisions of law, such deed shall be considered and operate as a conveyance of all the right, title, and interest the party delinquent had in and to the real property thus sold at the time the lien of the United States attached thereto.

(c) Effect of junior encumbrances

A certificate of sale of personal property given or a deed to real property executed pursuant to section 6338 shall discharge such property from all liens, encumbrances, and titles over which the lien of the United States with respect to which the levy was made had priority.

(d) Cross references

(1) For distribution of surplus proceeds, see section 6342(b).

(2) For judicial procedure with respect to surplus proceeds, see section 7426(a)(2).

(Aug. 16, 1954, ch. 736, 68A Stat. 788; Pub. L. 85-866, title I, §79, Sept. 2, 1958, 72 Stat. 1662; Pub. L. 89-719, title I, §104(g), Nov. 2, 1966, 80 Stat. 1137; Pub. L. 94-455, title XIX, §1906(b)(13)(A), Oct. 4, 1976, 90 Stat. 1834.)

AMENDMENTS

1976—Subsec. (b)(2). Pub. L. 94-455 struck out “or his delegate” after “Secretary”.

1966—Subsecs. (c), (d). Pub. L. 89-719 added subsecs. (c) and (d).

1958—Subsec. (b)(2). Pub. L. 85-866 substituted “as” for “of” after “Deed” in heading.

EFFECTIVE DATE OF 1966 AMENDMENT

Amendment by Pub. L. 89-719 applicable after Nov. 2, 1966, regardless of when title or lien of United States arose or when lien or interest of another person was acquired, with certain exceptions, see section 114(a)-(c) of Pub. L. 89-719, set out as a note under section 6323 of this title.

EFFECTIVE DATE OF 1958 AMENDMENT

Amendment by Pub. L. 85-866 effective Aug. 17, 1954, see section 1(c)(2) of Pub. L. 85-866, set out as a note under section 165 of this title.

§ 6340. Records of sale

(a) Requirement

The Secretary shall, for each internal revenue district, keep a record of all sales of property under section 6335 and of redemptions of such property. The record shall set forth the tax for which any such sale was made, the dates of seizure and sale, the name of the party assessed and all proceedings in making such sale, the amount of expenses, the names of the purchasers, and the date of the deed or certificate of sale of personal property.

(b) Copy as evidence

A copy of such record, or any part thereof, certified by the Secretary shall be evidence in any court of the truth of the facts therein stated.

(c) Accounting to taxpayer

The taxpayer with respect to whose liability the sale was conducted or who redeemed the property shall be furnished—

(1) the record under subsection (a) (other than the names of the purchasers);

(2) the amount from such sale applied to the taxpayer's liability; and

(3) the remaining balance of such liability.

(Aug. 16, 1954, ch. 736, 68A Stat. 789; Pub. L. 94-455, title XIX, §1906(b)(13)(A), Oct. 4, 1976, 90 Stat. 1834; Pub. L. 105-206, title III, §3442(a), July 22, 1998, 112 Stat. 761.)

AMENDMENTS

1998—Subsec. (a). Pub. L. 105-206, §3442(a)(1), struck out “real” after “sales of” and inserted “or certificate of sale of personal property” after “deed”.

Subsec. (c). Pub. L. 105-206, §3442(a)(2), added subsec. (c).

1976—Pub. L. 94-455 struck out “or his delegate” after “Secretary” wherever appearing.

EFFECTIVE DATE OF 1998 AMENDMENT

Pub. L. 105-206, title III, §3442(b), July 22, 1998, 112 Stat. 762, provided that: “The amendments made by this section [amending this section] shall apply to seizures occurring after the date of the enactment of this Act [July 22, 1998].”

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 6337 of this title.

§ 6341. Expense of levy and sale

The Secretary shall determine the expenses to be allowed in all cases of levy and sale.

(Aug. 16, 1954, ch. 736, 68A Stat. 789; Pub. L. 94-455, title XIX, §1906(b)(13)(A), Oct. 4, 1976, 90 Stat. 1834.)

AMENDMENTS

1976—Pub. L. 94-455 struck out “or his delegate” after “Secretary”.

§ 6342. Application of proceeds of levy

(a) Collection of liability

Any money realized by proceedings under this subchapter (whether by seizure, by surrender under section 6332 (except pursuant to subsection (c)(2)¹ thereof), or by sale of seized property) or by sale of property redeemed by the United States (if the interest of the United States in such property was a lien arising under the provisions of this title) shall be applied as follows:

(1) Expense of levy and sale

First, against the expenses of the proceedings;

(2) Specific tax liability on seized property

If the property seized and sold is subject to a tax imposed by any internal revenue law which has not been paid, the amount remaining after applying paragraph (1) shall then be applied against such tax liability (and, if such tax was not previously assessed, it shall then be assessed);

(3) Liability of delinquent taxpayer

The amount, if any, remaining after applying paragraphs (1) and (2) shall then be applied against the liability in respect of which the levy was made or the sale was conducted.

(b) Surplus proceeds

Any surplus proceeds remaining after the application of subsection (a) shall, upon application and satisfactory proof in support thereof, be credited or refunded by the Secretary to the person or persons legally entitled thereto.

(Aug. 16, 1954, ch. 736, 68A Stat. 789; Pub. L. 89-719, title I, §104(h), Nov. 2, 1966, 80 Stat. 1137; Pub. L. 94-455, title XIX, §1906(b)(13)(A), Oct. 4, 1976, 90 Stat. 1834.)

REFERENCES IN TEXT

Section 6332(c), referred to in subsec. (a), was redesignated section 6332(d) by Pub. L. 100-647, title VI, §6236(e)(1), Nov. 10, 1988, 102 Stat. 3739.

¹ See References in Text note below.

The internal revenue law, referred to in subsec. (a)(2), is classified generally to this title.

AMENDMENTS

1976—Pub. L. 94-455 struck out “or his delegate” after “Secretary” wherever appearing.

1966—Subsec. (a). Pub. L. 89-719 inserted in introductory provisions, references to an exception in the case of surrender under section 6332(c)(2) and to sale of property redeemed by the United States if the interest of the United States in such property was a lien arising under the provisions of this title, struck out “under this subchapter” after “proceedings” in par. (1), and inserted “or the sale was conducted” after “levy was made” in par. (3).

EFFECTIVE DATE OF 1966 AMENDMENT

Amendment by Pub. L. 89-719 applicable after Nov. 2, 1966, regardless of when title or lien of United States arose or when lien or interest of another person was acquired, with certain exceptions, see section 114(a)-(c) of Pub. L. 89-719, set out as a note under section 6323 of this title.

CROSS REFERENCES

Deposit fund account containing surplus proceeds in sales under levy, see section 7809 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 6207 of this title.

§ 6343. Authority to release levy and return property

(a) Release of levy and notice of release

(1) In general

Under regulations prescribed by the Secretary, the Secretary shall release the levy upon all, or part of, the property or rights to property levied upon and shall promptly notify the person upon whom such levy was made (if any) that such levy has been released if—

(A) the liability for which such levy was made is satisfied or becomes unenforceable by reason of lapse of time,

(B) release of such levy will facilitate the collection of such liability,

(C) the taxpayer has entered into an agreement under section 6159 to satisfy such liability by means of installment payments, unless such agreement provides otherwise,

(D) the Secretary has determined that such levy is creating an economic hardship due to the financial condition of the taxpayer, or

(E) the fair market value of the property exceeds such liability and release of the levy on a part of such property could be made without hindering the collection of such liability.

For purposes of subparagraph (C), the Secretary is not required to release such levy if such release would jeopardize the secured creditor status of the Secretary.

(2) Expedited determination on certain business property

In the case of any tangible personal property essential in carrying on the trade or business of the taxpayer, the Secretary shall provide for an expedited determination under paragraph (1) if levy on such tangible personal property would prevent the taxpayer from carrying on such trade or business.

(3) Subsequent levy

The release of levy on any property under paragraph (1) shall not prevent any subsequent levy on such property.

(b) Return of property

If the Secretary determines that property has been wrongfully levied upon, it shall be lawful for the Secretary to return—

- (1) the specific property levied upon,
- (2) an amount of money equal to the amount of money levied upon, or
- (3) an amount of money equal to the amount of money received by the United States from a sale of such property.

Property may be returned at any time. An amount equal to the amount of money levied upon or received from such sale may be returned at any time before the expiration of 9 months from the date of such levy. For purposes of paragraph (3), if property is declared purchased by the United States at a sale pursuant to section 6335(e) (relating to manner and conditions of sale), the United States shall be treated as having received an amount of money equal to the minimum price determined pursuant to such section or (if larger) the amount received by the United States from the resale of such property.

(c) Interest

Interest shall be allowed and paid at the overpayment rate established under section 6621—

- (1) in a case described in subsection (b)(2), from the date the Secretary receives the money to a date (to be determined by the Secretary) preceding the date of return by not more than 30 days, or
- (2) in a case described in subsection (b)(3), from the date of the sale of the property to a date (to be determined by the Secretary) preceding the date of return by not more than 30 days.

(d) Return of property in certain cases

If—

- (1) any property has been levied upon, and
- (2) the Secretary determines that—
 - (A) the levy on such property was premature or otherwise not in accordance with administrative procedures of the Secretary,
 - (B) the taxpayer has entered into an agreement under section 6159 to satisfy the tax liability for which the levy was imposed by means of installment payments, unless such agreement provides otherwise,
 - (C) the return of such property will facilitate the collection of the tax liability, or
 - (D) with the consent of the taxpayer or the National Taxpayer Advocate, the return of such property would be in the best interests of the taxpayer (as determined by the National Taxpayer Advocate) and the United States,

the provisions of subsection (b) shall apply in the same manner as if such property had been wrongfully levied upon, except that no interest shall be allowed under subsection (c).

(e) Release of levy upon agreement that amount is not collectible

In the case of a levy on the salary or wages payable to or received by the taxpayer, upon

agreement with the taxpayer that the tax is not collectible, the Secretary shall release such levy as soon as practicable.

(Aug. 16, 1954, ch. 736, 68A Stat. 789; Pub. L. 89-719, title I, §104(i), Nov. 2, 1966, 80 Stat. 1138; Pub. L. 94-455, title XIX, §1906(b)(13)(A), Oct. 4, 1976, 90 Stat. 1834; Pub. L. 96-167, §4(a), Dec. 29, 1979, 93 Stat. 1275; Pub. L. 99-514, title XV, §1511(c)(10), Oct. 22, 1986, 100 Stat. 2745; Pub. L. 100-647, title VI, §6236(f), Nov. 10, 1988, 102 Stat. 3740; Pub. L. 104-168, title V, §501(b), July 30, 1996, 110 Stat. 1460; Pub. L. 105-206, title I, §1102(d)(1)(B), title III, §3432(a), July 22, 1998, 112 Stat. 704, 759.)

AMENDMENTS

1998—Subsec. (d)(2)(D). Pub. L. 105-206, §1102(d)(1)(B), substituted “National Taxpayer Advocate” for “Taxpayer Advocate” in two places.

Subsec. (e). Pub. L. 105-206, §3432(a), added subsec. (e).

1996—Subsec. (d). Pub. L. 104-168 added subsec. (d).

1988—Subsec. (a). Pub. L. 100-647 inserted “and notice of release” after “levy” in heading and amended text generally. Prior to amendment, text read as follows: “It shall be lawful for the Secretary, under regulations prescribed by the Secretary, to release the levy upon all or part of the property or rights to property levied upon where the Secretary determines that such action will facilitate the collection of the liability, but such release shall not operate to prevent any subsequent levy.”

1986—Subsec. (c). Pub. L. 99-514 substituted “the overpayment rate established under section 6621” for “an annual rate established under section 6621”.

1979—Subsec. (c). Pub. L. 96-167 added subsec. (c).

1976—Pub. L. 94-455 struck out “or his delegate” after “Secretary” wherever appearing.

1966—Pub. L. 89-719 inserted “and return property” in section catchline, designated existing provisions as subsec. (a), and added subsec. (b).

EFFECTIVE DATE OF 1998 AMENDMENT

Amendment by section 1102 of Pub. L. 105-206 effective July 22, 1998, see section 1102(f) of Pub. L. 105-206, set out as a note under section 7803 of this title.

Pub. L. 105-206, title III, §3432(b), July 22, 1998, 112 Stat. 759, provided that: “The amendment made by this section [amending this section] shall apply to levies imposed after December 31, 1999.”

EFFECTIVE DATE OF 1988 AMENDMENT

Amendment by Pub. L. 100-647 applicable to levies issued on or after July 1, 1989, see section 6236(h)(1) of Pub. L. 100-647, set out as a note under section 6331 of this title.

EFFECTIVE DATE OF 1986 AMENDMENT

Amendment by Pub. L. 99-514 applicable for purposes of determining interest for periods after Dec. 31, 1986, see section 1511(d) of Pub. L. 99-514, set out as a note under section 47 of this title.

EFFECTIVE DATE OF 1979 AMENDMENT

Section 4(c)(1) of Pub. L. 96-167 provided that: “The amendment made by subsection (a) [amending this section] shall apply to levies made after the date of the enactment of this Act [Dec. 29, 1979].”

EFFECTIVE DATE OF 1966 AMENDMENT

Amendment by Pub. L. 89-719 applicable after Nov. 2, 1966, regardless of when title or lien of United States arose or when lien or interest of another person was acquired, with certain exceptions, see section 114(a)-(c) of Pub. L. 89-719, set out as a note under section 6323 of this title.

CROSS REFERENCES

Period of limitation for collection where release of levy under this section occurs, see section 6502 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 6331, 6502, 6503, 6532 of this title.

§ 6344. Cross references

(a) Length of period

For period within which levy may be begun in case of—

(1) **Income, estate, and gift taxes, and taxes imposed by chapter 41, 42, 43, or 44, see sections 6502(a) and 6503(a)(1).**

(2) **Employment and miscellaneous excise taxes, see section 6502(a).**

(b) Delinquent collection officers

For distraint proceedings against delinquent internal revenue officers, see section 7804(c).

(c) Other references

For provisions relating to—

(1) **Stamps, marks and brands, see section 6807.**

(2) **Administration of real estate acquired by the United States, see section 7506.**

(Aug. 16, 1954, ch. 736, 68A Stat. 789; Pub. L. 91-172, title I, §101(j)(45), Dec. 30, 1969, 83 Stat. 531; Pub. L. 93-406, title II, §1016(a)(13), Sept. 2, 1974, 88 Stat. 930; Pub. L. 94-455, title XIII, §1307(d)(2)(F)(v), title XVI, §1605(b)(8), Oct. 4, 1976, 90 Stat. 1728, 1755; Pub. L. 96-223, title I, §101(f)(1)(I), Apr. 2, 1980, 94 Stat. 252; Pub. L. 100-418, title I, §1941(b)(2)(B)(ix), Aug. 23, 1988, 102 Stat. 1323; Pub. L. 105-206, title I, §1104(b)(1), July 22, 1998, 112 Stat. 710.)

AMENDMENTS

1998—Subsec. (b). Pub. L. 105-206 substituted “section 7804(c)” for “section 7803(d)”.

1988—Subsec. (a)(1). Pub. L. 100-418 substituted “or 44” for “44, or 45”.

1980—Subsec. (a)(1). Pub. L. 96-223 inserted reference to chapter 45.

1976—Subsec. (a)(1). Pub. L. 94-455 inserted reference to chapters 41 and 44.

1974—Subsec. (a)(1). Pub. L. 93-406 inserted reference to chapter 43.

1969—Subsec. (a)(1). Pub. L. 91-172 inserted reference to chapter 42.

EFFECTIVE DATE OF 1988 AMENDMENT

Amendment by Pub. L. 100-418 applicable to crude oil removed from the premises on or after Aug. 23, 1988, see section 1941(c) of Pub. L. 100-418, set out as a note under section 164 of this title.

EFFECTIVE DATE OF 1980 AMENDMENT

Amendment by Pub. L. 96-223 applicable to periods after Feb. 29, 1980, see section 101(i) of Pub. L. 96-223, set out as a note under section 6161 of this title.

EFFECTIVE DATE OF 1976 AMENDMENT

Amendment by section 1307(d)(2)(F)(v) of Pub. L. 94-455 effective on and after Oct. 4, 1976, see section 1307(e) of Pub. L. 94-455, set out as a note under section 501 of this title.

EFFECTIVE DATE OF 1974 AMENDMENT

Amendment by Pub. L. 93-406 applicable, except as otherwise provided in section 1017(c) through (i) of Pub. L. 93-406, for plan years beginning after Sept. 2, 1974, but, in the case of plans in existence on Jan. 1, 1974,

amendment by Pub. L. 93-406 applicable for plan years beginning after Dec. 31, 1975, see section 1017 of Pub. L. 93-406, set out as an Effective Date; Transitional Rules note under section 410 of this title.

EFFECTIVE DATE OF 1969 AMENDMENT

Amendment by Pub. L. 91-172 effective Jan. 1, 1970, see section 101(k)(1) of Pub. L. 91-172, set out as an Effective Date note under section 4940 of this title.

[Subchapter E—Repealed]

[§§ 6361 to 6365. Repealed. Pub. L. 101-508, title XI, §11801(a)(45), Nov. 5, 1990, 104 Stat. 1388-522]

Section 6361, added Pub. L. 92-512, title II, §202(a), Oct. 20, 1972, 86 Stat. 936; amended Pub. L. 94-455, title XIX, §1906(b)(13)(A), title XXI, §2116(c), Oct. 4, 1976, 90 Stat. 1834, 1911, set forth general rules regarding collection of State individual income taxes.

Section 6362, added Pub. L. 92-512, title II, §202(a), Oct. 20, 1972, 86 Stat. 938; amended Pub. L. 94-455, title XIX, §1906(b)(13)(A), title XXI, §2116(b), Oct. 4, 1976, 90 Stat. 1834, 1910; Pub. L. 95-473, §2(a)(2)(H), Oct. 17, 1978, 92 Stat. 1465; Pub. L. 95-600, title IV, §421(e)(8), Nov. 6, 1978, 92 Stat. 2877; Pub. L. 97-248, title II, §201(d)(7), formerly §201(c)(7), Sept. 3, 1982, 96 Stat. 420, redesignated Pub. L. 97-448, title III, §306(a)(1)(A)(i), Jan. 12, 1983, 96 Stat. 2400; Pub. L. 97-354, §5(a)(41), Oct. 19, 1982, 96 Stat. 1696; Pub. L. 97-424, title V, §547(b)(5), Jan. 6, 1983, 96 Stat. 2200; Pub. L. 98-369, div. A, title IV, §§412(b)(6), 474(r)(35), title VII, §721(x)(5), July 18, 1984, 98 Stat. 792, 845, 972; Pub. L. 99-514, title XIII, §1301(j)(8), Oct. 22, 1986, 100 Stat. 2658, related to qualified State individual income taxes.

Section 6363, added Pub. L. 92-512, title II, §202(a), Oct. 20, 1972, 86 Stat. 942; amended Pub. L. 94-455, title XIX, §1906(b)(13)(A), Oct. 4, 1976, 90 Stat. 1834; Pub. L. 98-620, title IV, §402(28)(C), Nov. 8, 1984, 98 Stat. 3359, related to State agreements and other procedures.

Section 6364, added Pub. L. 92-512, title II, §202(a), Oct. 20, 1972, 86 Stat. 944; amended Pub. L. 94-455, title XIX, §1906(b)(13)(A), Oct. 4, 1976, 90 Stat. 1834, authorized Secretary to prescribe regulations for this subchapter.

Section 6365, added Pub. L. 92-512, title II, §202(a), Oct. 20, 1972, 86 Stat. 944; amended Pub. L. 94-455, title XIX, §1906(a)(21), Oct. 4, 1976, 90 Stat. 1826; Pub. L. 97-248, title III, §§307(a)(8), 308(a), Sept. 3, 1982, 96 Stat. 589, 591; Pub. L. 98-67, title I, §102(a), Aug. 5, 1983, 97 Stat. 369, set forth definitions and special rules for this subchapter.

SAVINGS PROVISION

For provisions that nothing in repeal by Pub. L. 101-508 be construed to affect treatment of certain transactions occurring, property acquired, or items of income, loss, deduction, or credit taken into account prior to Nov. 5, 1990, for purposes of determining liability for tax for periods ending after Nov. 5, 1990, see section 11821(b) of Pub. L. 101-508, set out as a note under section 29 of this title.

CHAPTER 65—ABATEMENTS, CREDITS, AND REFUNDS

Subchapter	Sec. ¹
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Subchapter A—Procedure in General

Sec.	
6401.	Amounts treated as overpayments.
6402.	Authority to make credits or refunds.
6403.	Overpayment of installment.

¹ Section numbers editorially supplied.